

**AND
SOMETIMES
THEY KILL
YOU**

Confronting
the Epidemic of
Intimate Partner
Violence

PAMELA CROSS

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“Deeply personal, honouring both the stories Cross has been entrusted with, as well as her own, *And Sometimes They Kill You* is honest, authentic, informative, and compassionate. Cross leaves us with a strategic and hopeful path forward. You’ll want to read every word.”

Sue Bookchin, executive director, Be the Peace Institute

“*And Sometimes They Kill You* is an impeccably subversive roadmap for anyone interested in an end to gender-based violence. Cross orchestrates decades of professional and personal experience into a no-nonsense harmony of truth and knowledge-sharing.”

Jennifer Good, MSW, psychotherapist, activist, survivor

“*And Sometimes They Kill You* is a powerful must-read for our times. With rates of intimate partner violence and femicide on the rise, there is no one better positioned to examine this issue than Pamela Cross. With the honesty and integrity that comes with decades of intentional collaborative grassroots experience and honouring of survivors’ stories, Cross offers a powerful truth-telling of the state of intimate partner violence and the systems that perpetuate it. Her thoughtful and innovative solutions provide readers with practical strategies to effect change. Most importantly, we are left with a message of hope to fuel our resolve to act for that change.”

Carol Barkwell, feminist advocate; founding executive director, Luke’s Place

“With sharp analysis carved from years of being on the frontlines, Pamela Cross gives us a behind-the-scenes look at the reality of intimate partner violence and femicide in Canada. Focusing on root causes and pathways to justice, Cross gives readers the necessary tools to create a world where women are free from men’s violence. A better world is possible and this book gives us the blueprint.”

Julie S. Lalonde, author of *Resilience is Futile*

“In this important and timely book, Pamela Cross weaves together the stories of survivors of intimate partner violence with her decades-long experience as an advocate to lay bare the multiple ways that law and other social institutions have failed to keep women and children safe. Cross offers insights into the root causes of intimate partner violence, the myths and stereotypes that impede our understanding, and the challenges survivors encounter in the legal system. Her reflections on her own learning and unlearning over time reinforce her message that if we bring humility, an openness to the perspectives of others, and energy for collaborative work, collectively we have the capacity to create spaces of safety for women and children and to eradicate intimate partner violence. Cross argues that we each have a role to play. *And Sometimes They Kill You* is exactly the resource we need to prepare for that role.”

Janet Mosher, professor Osgoode Hall Law School, York University

“*And Sometimes They Kill You* is an exceptional publication that will inspire both the community at large and justice professionals to redouble their efforts in preventing intimate partner violence. Pamela Cross’s many years of experience in the field, training and testifying about this violence, inform her powerful writing. She makes us painfully aware that there are practical solutions to preventing domestic homicides that we ignore at our peril, with more lives lost and more communities in mourning.”

Peter Jaffe, professor emeritus, Faculty of Education, Western University;
director emeritus, Centre for Research and Education on Violence Against
Women and Children

“Pamela Cross has worked for many years ‘in the trenches’ with women who have suffered violence in their family, in workplaces, and in public spaces. This book is testimony to her impact, dedication, and deep knowledge. Cross weaves in agonising stories of personal tragedy to illustrate just how short the legal system falls for women seeking protection from violence, as she calls for the recognition of intimate partner violence as an epidemic.”

Julie Macfarlane, author of *Going Public: A Survivor’s Journey from Grief to Action*; co-founder, Can’t Buy My Silence campaign

“Cross’s is a well-lived life full of passion and compassion to ease the pain of others. *And Sometimes They Kill You* deals with soul-destroying issues, but it is written simply and is accessible to diverse readers.”

Alia Hogben, past executive director, Canadian Council of Muslim Women; Order of Canada

“If you are interested in a book that provides insight into the cycle of violence, the courage of women, and the advocacy efforts toward systemic change, then this is a read for you! *And Sometimes They Kill You* is a thought-provoking, insightful, and inspiring book, which honours the journey of a true feminist advocate.”

Erin Lee, executive director, Lanark County Interval House and Community Support

“*And Sometimes They Kill You* is a powerful, important work on intimate partner violence. Pamela Cross’s decades of experience as a lawyer on the front lines and a leader in the field enrich her exposé of systemic legal failures in the response to assaulted women and their children. In clear, accessible prose, Cross provides a searing indictment of gaps in the law and the challenges confronting us in the eradication of this deep problem of gender inequality. Yet she offers us hope for finding a way forward. This book is a thoughtful, nuanced, and essential contribution to the conversation about how to end gender-based violence.”

Melanie Randall, professor, Faculty of Law, Western University

“Pamela Cross combines her knowledge as a skilled advocate with painful and inspiring stories from a career spent listening to, learning from, and helping survivors, in order to demonstrate our progress but also our failure to adequately address a continuing epidemic of intimate partner violence. More than that, Cross uses that personal experience to make a strong, persuasive case for transformative change in the way our systems of justice respond.”

George Thomson, former judge and former deputy minister of justice

“With tremendous heart, humility, and fearlessness, Pamela Cross gifts us with wisdom from her years of experience on the frontlines of the

movement to end gender-based violence and compels us, collectively, forward. She calls us in with hope and optimism amidst the rippling devastation and reminds us of what's possible when we centre survivors in the work and see gender-based violence—and femicide—as the public health and social crisis that it is. An important, truth-telling read.”

Sarah Boesveld, journalist and advocate

“With wisdom, compassion, and hope, Pamela Cross weaves seamlessly between the individual cases that have marked her career and the systemic issues and challenges that these cases evince. Despite the weight of all that she has seen over a career spent working on the sharp edge of one of our society’s most pernicious evils, Cross manages not only to continue to do the work, but, with this book, to urge the movement to end gender-based violence forward in the hope and belief that a better world is possible.”

Kirsten Mercer, feminist lawyer and advocate; lead counsel to EVA
Renfrew at the 2022 CKW Inquest

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Between the Lines
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*To all those who have survived and not survived intimate
partner violence, and to those who have stood by their side
during their journeys.*

“At the end of the day, we can endure much more than we think we can.”

—Frida Kahlo

“Do your best, then do a bit better, and then don’t beat yourself up.”

—Winona LaDuke

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Preface

“Please help me. My husband has a gun and he’s in the house with my son!”

These were the words uttered by a young mother, clutching her baby, as she ran into my office one sunny summer day in 1995. I didn’t flatter myself that she had sought me out because I was known as an expert on the issue of intimate partner violence (IPV) or, as we called it then, domestic violence. After all, I had just opened my practice and I wasn’t much of an expert on anything. Passion, I had; expertise, not so much. I didn’t even have any clients yet.

Susana (not her real name) was clearly in great distress and she had turned to me for help. So I sat her down at my as-yet-unused client table, brought her a glass of water, pulled out my brand new legal pad, and asked her to tell me her story.

Our initial encounter was a matter of coincidence. She later told me that she had come into my office simply because she’d spotted it as she got off the bus. Although I was sadly lacking experience in the real-life practice of law, I was able to be of assistance in her immediate moment of need. Then, over the next several months, we were able to get court orders that reunited her with the son she’d had to leave behind and that kept her and her children as safe as possible.

I have thought about Susana often in the three decades since, because whatever help I was able to offer her was far eclipsed by what I learned from her. Susana’s case opened my eyes to the reality that the legal systems to which many women turn are ill-equipped to respond effectively or compassionately to the violence in their lives.

I had wanted to be a lawyer since, as a nine- or ten-year-old, I had crouched behind the living room couch while my parents watched *Perry Mason*, confident that they had no idea I was there. What could be better, my young brain thought, than saving the innocent from wrongful conviction? I spent the next several years assuming I would become a lawyer and devouring books about lawyers who were clearly on the side of justice: Clarence Darrow, Mahatma Gandhi, the many lawyers who represented civil rights activists in the United States, and others. By the end of high school, I was very familiar with the LSAT exam, having spent many a Saturday afternoon doing sample tests.

But my life headed in an unexpected direction—one that took me far away from any thoughts of heroic lawyerly acts—when, at the age of nineteen, I became a mother. Once my daughter was born, it didn't take me long to realize that neither of us was going to be happy if I were to be a stay-at-home mum. However, the university I attended had no child care facilities, the city I lived in had none that took children under two years of age, and I couldn't impose on my mother-in-law indefinitely, so I needed to find somewhere to deposit my baby if I was to return to school.

With my infant daughter strapped into her car seat, I began attending meetings organized by other parents who wanted the university to establish a day care centre. The cause became a full-time activity for me, as we fought the university administration for on-campus space in which we could establish our day care.

While this advocacy led me into decades of in-the-street activism, my daughter was actually the one who first engaged—albeit without her knowledge or consent—in an act of civil disobedience when she, along with two or three other babies, occupied the office of the student government's president, a young man who didn't understand the importance of day care for many students. It took only a couple of hours of the diaper occupation before he agreed to support our cause with the university administration, and not too long after that, we had our space. (No children were harmed in the execution of this occupation: we had an ally in the president's secretary—herself a mother—who kept a close eye on our babies during this small act of civil disobedience.)

After our success with the day care centre, my life as an activist continued to develop. Over time, that activism came to include more and

more acts of civil disobedience, which often led to arrests, criminal trials, and, frequently, guilty verdicts. My interest in law was reignited through this activism, as I saw first-hand how often it served as a weapon of oppression rather than a tool for social justice. I was also attracted to the mechanics of law, to how it all worked, to the logic (and illogic) of it.

While I sat in courtrooms with my companions in crime waiting for our cases to be called, I watched, listened, and once again became seduced by the possibilities of law. Because the charges we faced were most often what are called summary conviction offences, we had the choice to represent ourselves, hire a lawyer, or appoint someone to speak for us. I began to take on this role and, happily if ignorantly, immersed myself in legal tomes and cases to try to develop unique legal arguments to defend myself and my companions.

I can't point to a large body of legal successes over those years, but I learned a lot and realized I wanted to learn more. When I was thirty-five, I applied to law school. I did so with grand ideas about taking my activism from the streets to more erudite places like the Supreme Court of Canada, where I would argue persuasively on cases of great constitutional importance, playing whatever role I could to make sure that law functioned as a tool for social justice.

Once I met Susana, I realized that the social justice work I needed to do was going to be very different from what I had envisioned. I haven't argued mighty cases that have changed the world. I've never set foot in the Supreme Court. In fact, I haven't been in a courtroom of any kind for more than twenty years. Instead, my work has been focused on women and the legal systems they have turned to for help—systems that are largely ignorant of and hostile to their lived realities. I have never regretted this change in direction.

I built a practice around women whose partners had abused them (and, as I quickly learned, often continued to abuse them after they separated), who had been sexually assaulted by men they knew and didn't know or sexually abused as children, or who were being sexually harassed at work and at school. Sometimes, I represented the community-based services that supported these women, especially when criminal defence lawyers tried to get access to their private records in order to intimidate them into silence.

I learned how to bring what is now called a trauma-informed approach to my work with clients—not by reading a textbook (there weren't any on the topic then), but by listening to the women who trusted me enough to come into my office. I set up my space so the room felt safe to frightened women. I made my appointments long, to give women time to settle in and talk around the abuse until they were ready to talk about it directly. I learned to be patient. I came out from behind my desk to sit next to my clients. I bought boxes and boxes of Kleenex for my clients, but it turned out that I needed them too. I went to where the women were if they were too scared to come to me: the shelter, the sexual assault centre, the police station, their sister's house, their workplace, a coffee shop, their therapist's office.

Over time, I became a better lawyer. I learned how to write a strong affidavit, how to find and present compelling evidence, how to craft an argument that contained passion but also law. For the first few years, I took as many shifts as I could get as duty counsel in both family and criminal court to get much-needed courtroom experience.

Despite the assistance I was able to offer the women who sought me out, I began to realize that, however good a lawyer I might become, the women I represented were dealing with systems so flawed that the outcomes of their cases would rarely approach true justice. I was also forced to admit that the work was destroying my soul: while I had never heard of vicarious trauma—law school hadn't even whispered such a term—that's what I was dealing with.

It was time to shift my focus from representing individual women to working for change at the system level, which is the work I have been doing since 1998. Over this time, I've learned a lot about how legal and political systems work, what's wrong with them, what changes are needed, and how to be effective in making those changes. I've done research, developed and delivered training, written resources for women and for those who provide support services to them, and, perhaps most significant of all, been an advocate for systemic change.

Most often my work is collaborative, because I believe wholeheartedly that we are our best selves when we work together, even when that can mean working across differences. Throughout my decades of practice, my

work has remained rooted in the experiences of survivors of gender-based violence (GBV) and the front-line workers who support them.

This is a book about gender-based violence, with a focus on intimate partner abuse. It takes place mostly in Ontario and uses women's stories to illuminate the repeated failures of systems and institutions to keep them and their children safe.

The book is shaped by my experiences as a lawyer working on the front lines to try to make those systems and institutions better. Because of that, it looks most closely at legal responses to intimate partner violence, while also recognizing that the changes needed to meaningfully respond to and, ultimately, end gender-based violence must go much further than the law. Until women achieve meaningful equality in every aspect of our lives; until poverty and racism are eradicated; until everyone can be housed safely, affordably, and comfortably; until women can control our bodies, especially with respect to reproduction; and until we implement the recommendations of the Truth and Reconciliation Commission, the National Inquiry into Missing and Murdered Indigenous Women and Girls, and the Nova Scotia Mass Casualty Commission, law can provide only band-aid responses to the problem of gender-based violence.

My own understanding of gender-based violence, and my ideas about what we need to do about it, have changed significantly as a result of the work I do. But from the beginning and still today, how I think about gender-based violence and the systems and institutions that respond to it has been inexorably shaped by my own lived experience.

I have enjoyed the considerable privileges afforded to those of us who move through our lives with white skin, who are Canadian born and raised, who speak English as our first (in my case, only) language, who choose to love someone of the opposite gender, and who are born in the body of the gender we understand ourselves to be. I grew up in a middle-class family, with parents committed to ensuring a good education for their children. I was encouraged from a young age to speak my mind and to be curious about the world around me. My parents provided us with access to a wide range of extracurricular activities and summer after summer of travel around Canada, the United States, and Europe. I've never had to worry

about whether I would have somewhere safe to live or where my next meal might come from. So far, I have experienced few challenges to either my mental or physical health.

That doesn't mean my life has been entirely free of difficulties or complexities. My parents' relationship was a loveless one, and as a result, neither of them treated the other particularly well. They sniped and criticized. They didn't seem to like or respect each other. My siblings and I saw little in the way of affection between them, and we often wondered what had brought them together in the first place. The tension between our parents spilled over to the rest of us, and I know I grew up assuming that's what marriage was all about.

When I was growing up in the 1950s and 1960s, little was said openly about any form of violence against girls and women. It's not surprising, then, that when one of my high-school teachers began paying "special attention" to me, I had no idea what to do. His attentions were both verbal and physical, public and private. I was equal parts terrified, embarrassed, and—as is still true for many girls and women—convinced this was somehow my fault. Always a keen and good student, I dreaded my classes with this teacher and decided I would take no other courses he taught.

Eventually I became sufficiently distraught that I told my parents, who said that I was overreacting and that the teacher was just being friendly. I don't fault my parents for their reaction—how could they have known any better at the time? But I did learn a lesson from this experience: when men, especially men in power, do something bad, keep quiet about it because no one wants to know and nothing will be done.

That was my first experience with gendered abuse, but it was not the last. Like many—perhaps most—women, I have been subjected to discrimination and violence simply because I am a woman. However, I have been less harmed by these experiences than many women because of the privileges I enjoy. For that and other reasons, I have chosen—with rare exceptions—not to identify myself as a survivor in my work, although the experience of being victimized by gendered abuse has certainly changed how I understand the world, my place in it, and my right (or lack thereof) to expect to be and feel safe.

When I started law school, I thought of the institution of law—particularly the criminal law—as a neutral framework that provided

guidelines for how we ought to behave and treat one another. It was a rude awakening to learn the extent to which the laws on which the Canadian legal system is built were created to protect the interests of property owners (at the time, white men) and that women were considered the property of those men. In particular, I have learned the many ways in which the colonial laws of this land, and those of us who work within this legal system, have been complicit in and have benefited from the violation of the rights of Indigenous Peoples and, especially, Indigenous women, girls, and gender-diverse people. It is my responsibility to be part of the work to reconcile these past and ongoing harms.

Once I began working as a lawyer, it was easy to see the formidable challenges the structure of law itself created for women who turned to that system believing it would offer them justice. I quickly learned that law does not equal justice. I got lots of things wrong and made plenty of mistakes on my journey to understanding that, when things didn't go well for my clients, it wasn't just because I could have done a better job or the woman could have been a better witness or we'd encountered a not-so-great judge but, rather, a problem with the entire legal framework. That's why, as I come close to the time when I will retire from this work, I find myself increasingly wondering—even as I continue to work passionately for changes to the law and legal processes—whether we need to build an entirely new system for responding to gender-based violence.

Some days I want to scream, “Enough! I’ve learned all I possibly can.” But I know that I will never reach the end of this path of learning I have been walking since Susana came into my office all those years ago. I know that I will keep making mistakes, and I trust that I will continue to have the humility to accept constructive criticisms that help my ongoing learning.

I begin this book with a look at three public examinations of violence against women (VAW): the 2022 coroner's inquest into the 2015 murders of Carol Culleton, Anastasia Kuzyk, and Nathalie Warmerdam in Renfrew County, Ontario, by a man who'd had or sought to have an intimate relationship with each of them; the Nova Scotia Mass Casualty Commission, whose public hearings into the relationship between intimate partner violence and mass killings took place that same year; and the

Desmond Fatality Inquiry, which investigated the circumstances that led a veteran who had served in Afghanistan to kill his daughter, wife, and mother and then himself in rural Nova Scotia in 2017. All three proceedings provide much food for thought with respect to what the best ways are to learn from the past to make positive changes in the future.

In [chapter two](#), I examine our understandings of gendered violence as they have evolved over time, looking at the history of women's equality and violence against women, and how social attitudes towards intimate partner violence and the language we use to talk about it have developed. In this chapter, I also explore what intimate partner violence is and what it looks like in Canada.

The middle part of the book is a critical analysis of many of the barriers to ending intimate partner violence. In [chapter three](#), I look at the roles played by biases, myths, and stereotypes as well as the news media, popular culture, and the so-called men's or fathers' rights movement. I also take a critical look from the inside at the violence against women movement, a movement which I have been honoured to be part of for many years. In [chapter four](#), I consider the barriers to change posed by the systems of criminal and family law.

The final chapter of the book is devoted to what we—all of us—can do to fix the problem of intimate partner violence, by looking at what kind of approach we need to take, how we can make something good in the aftermath of even terrible tragedies, what truly transformative change could look like, and how each of us can take action.

I end with a short epilogue, offering some reflections on where my work has taken me, how it has changed me, and what might lie ahead.

Stories are woven throughout this book. Featuring these stories—just a few of so many—is a small way for me to honour all those whose lives have been disrupted by intimate partner violence. My experience has been that listening to the experiences of women who have survived intimate partner violence, and learning the stories of those who have not, is integral to understanding what intimate partner violence is and what we need to do about it. In fact, this is how I have learned the most: by listening to what women have shared with me and incorporating their experiences into my understanding.

A note about language

As I will explore more deeply later, our understandings of gender-based violence and intimate partner violence have expanded in many ways over the years. Without in any way downplaying the reality that all people can be subjected to these forms of violence, the evidence is clear that those who identify or are seen as women are subjected to the most severe forms of intimate partner abuse and sexual violence. For this reason, I use the word woman—meaning anyone who identifies as woman—when I am talking about victims and survivors of gender-based violence.

You will notice as you read this book—especially the interwoven stories—that I do not name the men who have caused the harm. When I first started writing about intimate partner violence, I thought it was important to name the person who had committed the abusive acts. After all, shouldn't he be accountable to the world for his behaviour? But over the years, I have seen the ways in which naming the abuser gives him ongoing attention and power. Removing his name from the story helps to take the spotlight off him.

Historically, media have not named the survivor or victim in gender-based violence stories, especially those that involve sexual assault. There are good reasons to grant the survivor/victim anonymity; among them, safety, privacy, and the ability for her to move on in her life without being always attached to the violence to which she was subjected. However, not naming her can turn the notion of privacy into secrecy, also planting the idea that shame belongs to the survivor rather than to the person who has caused the harm or the societal structures on which much gender-based violence is built. Over the past couple of decades, we have seen the empowerment of the “survivor voice,” as more and more survivors claim and tell their stories, often using their own names.

Each story is unique because it is shaped by the individual people who were part of it. There is no one “survivor story”; we need to hear or read many of them if we want our understanding of intimate partner violence to be fully nuanced.

I picked the stories that I have included carefully. Some are big stories that will already be known to you because they were covered by the media; some have come straight from my law practice files, others from private conversations I have had with women. All have been an important part of my own learning process, and I share them in the hope that they might be helpful to you in the same way. Some of the stories illustrate the tenacity and courage of survivors of gender-based violence. Others make systemic failures obvious; still others let us understand the many nuances of gender-based violence and systemic responses to it. They all have something

important to contribute to a conversation about intimate partner violence in Canada.

These are disproportionately stories that involve death. Even though homicide is the very small tip on the very large iceberg of intimate partner violence, these deaths are investigated more thoroughly than other forms of gender-based violence and offer us valuable learning opportunities.

I reveal no secrets by sharing these stories. Where I use people's real names, the stories contain only information that is available in the public domain. Where I share stories of women I know or with whom I have worked, I change the names and some of the details to protect their privacy.

This is not an academic book because I am not an academic. Certainly, I have read a fair number of books, papers, and articles about gender-based violence and women's equality, but I have never taken a women's studies course and I have few post-secondary degrees or certificates.¹ My understanding of gender-based violence has grown from the work that I did as a practising lawyer, which has, in turn, shaped the system-level work I have done since, and it continues to grow.

My hope is that this book will appeal not only to people who are immersed in this work and those whose jobs may expose them to the issue of intimate partner violence, but also to survivors and their friends and families as well as to anyone who simply knows that intimate partner violence is something they want to end.

Reading this book may make you angry, frustrated, and sad, but let yourself also be inspired by the strength, determination, and resiliency of the many women who have survived gender-based violence and those who have supported them. I hope you will be moved to join—in whatever way you can—the vital work of eradicating intimate partner violence. I want to persuade you that we need an all-of-society, revolutionary response to gender-based violence, which is—undeniably—an epidemic.

Chapter One

Inquests and Inquiries

A story of violence in rural Ontario

Renfrew County, Ontario, is Ontario's biggest county; it covers more than 7,000 square kilometres. Spread over that distance are 106,000 people, which is about 14 people per square kilometre. (Take out the main urban centres of Pembroke, Petawawa, Arnprior, and Renfrew, and the number per square kilometre drops dramatically.) To fully appreciate how sparse the population is, compare those numbers to the city of Toronto, where 3 million people live in a space of just 630 square kilometres. That's 4,750 per square kilometre.

One of Canada's largest military bases—Garrison Petawawa, with 6,100 members of the military—is located in Renfrew County. Deep River and Chalk River are home to Canadian Nuclear Laboratories. Agriculture and tourism feature prominently in the county's economy.

Like many rural parts of Canada, Renfrew County is conservative; both large and small c style. Conservative party candidates are often successful at the polls. Support for the Freedom Convoy is visible, especially in the countryside. It can be a hard place to be an outspoken woman.

There is just one women's shelter in this vast area, meaning that it might take a woman an hour or more to get there. That assumes she has access to a vehicle, because there's no public transportation system. There aren't a lot of family law practitioners, almost none outside the urban areas. Cell service is intermittent. There are just four Ontario Provincial Police detachments to monitor the county, so police response times can be slow. One thing there are plenty of is guns, mostly long guns of one kind or

another. While they usually have a legitimate purpose, those firearms also get used by abusers to threaten and terrify their partners and, sometimes, to kill them.

September 22, 2015, was an unusually warm day in Renfrew County. People went about their business, which for the staff and volunteers at the Women's Sexual Assault Centre meant putting the finishing touches on that evening's annual Take Back the Night March. Those plans were rapidly shelved, though, when word trickled out that women in the county were being killed.

By late morning, police had been called to three crime scenes. First, in Wilno, they found Anastasia Kuzyk, a well-known and well-liked real estate agent and bartender at the Wilno Tavern, shot to death in her home. Then, just a short drive away, they found Nathalie Warmerdam, a much-beloved palliative care nurse, also shot to death in her home. Her teenaged son was hiding in the woods outside the house, having followed his mother's instructions to run when the killer entered the house. Last, they were called to a cottage by a real estate agent who, when she'd arrived to discuss listing the cottage for sale, had found its owner, Carol Culleton, a recently retired civil servant from Ottawa, strangled to death.

Later that day, police arrested a man and charged him with all three murders. He had had personal relationships with the three women, two of whom had turned to the police and other services for help because of his violence. He had a long history of abusive behaviour towards his partners, but had only faced criminal consequences for his violence in the years immediately preceding the murders. After being found guilty on two occasions and serving short jail sentences, he was released on probation, even though both times he had refused to sign his terms of release. He had faced no consequences when he'd failed to follow those conditions—in particular, by not going to the Partner Assault Response sessions he had been ordered to attend.

At trial, held in Ottawa in the fall of 2017, the jury found him guilty of first-degree murder in the killings of Anastasia Kuzyk and Nathalie Warmerdam and of second-degree murder in the killing of Carol Culleton. And on December 6, 2017—the anniversary of the Montreal Massacre—he was sentenced to three life sentences.

While the sentence was such that the families of the murdered women and the community in which the killings took place knew they didn't need to worry about the perpetrator being released from prison, the criminal process—by definition—left a lot of unanswered questions. Criminal trials do not look at broader issues: the root causes of the perpetrator's behaviour, the social context, the history surrounding the event(s), or systemic failures that contributed to what happened. For that, we must turn to other processes.

In the Renfrew County case, those processes would include an inquest. In August 2019, the coroner announced an inquest—which came to be called the CKW Inquest—into the triple femicide. That inquest took place in June 2022, almost seven years after the women's murders.

What is an inquest?

Inquests in Canada are created by provincial/territorial legislation. While the details of how they are managed vary slightly from one jurisdiction to another, inquests have a common general purpose: to examine the circumstances of a death.

In Ontario, a coroner, under powers granted in the *Coroners Act*, can call an inquest to examine factors, including systemic factors, that may have contributed to particular deaths. Inquests are mandatory in some circumstances, such as when someone dies on the job at a construction site, in a mine, or while in custody, but that is not the case when the death arises from intimate partner violence. However, coroners have the discretion to call an inquest in circumstances where there is enough information to support one, it may be desirable to have an open hearing into a death, or the inquest could make useful recommendations to prevent similar deaths in the future.

Inquests are overseen by a presiding officer, usually a coroner, who is appointed by the coroner's office. Lawyers for the coroner's office represent the presiding officer and the public interest. People and organizations with a substantial and direct interest in the matters to be explored at the inquest, or who might be affected by any of its recommendations, can seek standing. This group often includes the

provincial government and may also include family members of the person(s) whose death is being investigated.

Five members of the community where the death took place are selected to serve as the jury. Their role is not to make decisions about liability or guilt or innocence but, rather, to listen to the witnesses, consider the evidence, and answer five questions:

1. Who died?
2. When?
3. Where?
4. What was the cause of death?
5. What was the means of death? Did this person die of natural causes, by accident, homicide, or suicide, or does the means of death remain undetermined?

In addition, juries may—but are not required to—make non-binding recommendations for changes that could prevent similar deaths in the future. In order to ensure the jury has as much information as it needs to reach a verdict, unlike in criminal trials where the jury sits silent throughout the proceedings, jurors in inquests are permitted to ask questions.

The scope of what the inquest will cover is set ahead of time by the coroner, and only witnesses with evidence that falls within that scope will be admitted.

Domestic violence inquests in Ontario

Prior to the 2022 CKW inquest, Ontario had held two inquests into domestic violence homicides, and three others that also dealt with domestic violence–related deaths.^{[1](#)}

In 1996, the coroner’s office announced what it called a “super inquest” into the deaths of Arlene May and her former boyfriend, who also killed himself. The May-Iles Inquest was to be representative in nature and to examine domestic violence and intimate partner femicide on a province-wide basis. It resulted in 213 recommendations.

Just four years later, another domestic violence homicide inquest took place; this time into the deaths of Gillian Hadley and her estranged

husband, who killed himself after he killed Gillian. It led to 58 recommendations.

As a result of those two inquests, Ontario established Canada's first Domestic Violence Death Review Committee in 2002. The DVDRC is responsible for investigating and reviewing domestic violence deaths and developing recommendations to "prevent such deaths in similar circumstances."² Between then and 2023 the DVDRC reviewed 420 cases, involving a total of 601 deaths.³

Between the May-Iles and Hadley Inquests and the work of the DVDRC, close to one thousand recommendations intended to address intimate partner homicide have been made (some of them overlapping or similar to one another).⁴ It is difficult to determine with any certainty how many of those recommendations have been meaningfully implemented.

In other Canadian jurisdictions, both inquests and inquiries have been used to examine deaths in intimate partner violence situations. For example, Alberta has held public fatality inquiries, Manitoba has held fatality inquests, and in British Columbia, when children have been killed, the BC Representative for Children has conducted reviews. Whatever they are called, these processes all look at the circumstances of particular deaths and make recommendations for systemic change to try to prevent similar deaths in the future.

What is an inquiry?

Inquiries, which used to be called royal commissions, can be established by federal, provincial/territorial, and/or municipal governments. Legislation exists at all three levels to govern them; the federal law is the *Inquiries Act*.

Inquiries have a broad mandate: to investigate and report on issues of serious public concern, whether or not a death is involved. An inquiry will generally consist of both investigative and public hearing components, and is intended to examine the facts related to an event or an issue and to develop public policy recommendations. It can promote transparency and accountability as well as improve public policies related to the issue or event being examined, but it cannot establish criminal or civil liability.

An inquiry is established by way of an order in council, which sets out the terms of reference, including mandate (scope) and timelines. The order

in council also appoints the person or people who will oversee the inquiry, known as the commissioner(s), and sets a budget for the process. The commissioner then decides whether the team needs lawyers and identifies potential individuals or organizations that might want to participate.

Public hearings, for which the commissioner will establish rules of procedure, generally follow the investigative stage of an inquiry. These hearings tend to be more formal than is the process in an inquest.

There have been hundreds of inquiries in Canada's history. In 1993, the Krever Inquiry, as it came to be known, investigated the blood system in Canada after thousands of people were exposed to HIV and hepatitis C through contaminated blood products. In 1996, the Commission of Inquiry into Certain Events at the Prison for Women in Kingston, headed by Justice Louise Arbour, published its report. The Ipperwash Inquiry looked into the killing of Indigenous activist Dudley George by the Ontario Provincial Police in 1995. In 2002, the Walkerton Inquiry examined the circumstances that led to contamination in the town's water supply that resulted in the deaths of seven people. And, of course, the National Inquiry into Missing and Murdered Indigenous Women and Girls, held between 2016 and 2019, produced hundreds of pages of information about the ongoing genocide of First Nations, Indigenous, and Métis women and girls, as well as 231 calls for justice in its 2019 final report.

As with inquests, the recommendations in an inquiry are non-binding. However, both processes provide us with opportunities to learn from the past and to apply those learnings to our work to prevent similar things from happening in the future.

Let's turn to Nova Scotia for two different stories of family violence and the inquiries that were held to examine them, before looking at the CKW Inquest in some detail. One of those stories—the Nova Scotia mass casualty event that was rooted in generations of family violence—is well known. The other—an act of family violence that left four people, including the perpetrator, dead and is tied inextricably to a former soldier's post-traumatic stress disorder (PTSD)—is less well known.

A mass killing in rural Nova Scotia

Few Canadians outside of Nova Scotia had heard of Portapique before late April 2020. It's a tiny town, with a year-round population of about a hundred that more than doubles in the summer months. Located near the mouth of the Portapique River, which flows into the Minas Basin, its economy is based mostly on farming and fishing. Like in many small and rural communities, people know and look out for one another.

The wealthy white man who became the perpetrator of Canada's largest mass shooting event ran denturist clinics in Dartmouth and Halifax and owned a large home in Portapique, where he and his partner, Lisa Banfield, spent much of their time. Lisa had been subjected to the perpetrator's abuse throughout their relationship, during which time she was also employed by him at his clinics. His abuse involved physical violence as well as coercively controlling behaviours. She was dependent on him for employment, money, and housing. He was known to threaten to harm her family if she stepped out of line or talked about leaving him.

On April 18, 2020, the residents of Portapique, like the rest of the world, were still getting used to life during a pandemic. The perpetrator and Lisa were spending more time at his home there than usual, because COVID-19 had forced him to close down his clinics. In the weeks leading up to that day, he had stockpiled ammunition for his many firearms, as well as, because of his concerns about the pandemic, gasoline and cash. He also isolated Lisa even more from her family.

April 18 was their nineteenth anniversary. They spent the day together celebrating, but by late evening the perpetrator had become abusive, violently assaulting Lisa and confining her in the back of the precise replica of an RCMP cruiser that he maintained on the property. She managed to escape and, despite having no shoes on, made her way into the nearby forest, where she hid for most of the night.

Over the next hour, the perpetrator killed thirteen people in Portapique, setting many homes—including his own—on fire as he did so. In the course of the following twelve hours, he killed another nine people throughout mostly rural central Nova Scotia, before he was killed by police. On his rampage, he also shot and killed a number of people's pets.

Lisa emerged from her hiding spot in the woods in the early morning of April 19 and, despite her many injuries, provided the RCMP with valuable information to assist them in tracking and finding the perpetrator.

Because he was killed, there was no criminal trial to provide answers to many of the questions surrounding the events of April 18/19. But even had there been such a trial, its purpose—as in the Renfrew case—would have been only to determine whether or not he was guilty of the offence(s) with which he had been charged. To look at the broader issues, the governments of Canada and Nova Scotia established the Mass Casualty Commission in October 2020. The commission conducted its work over the following two years, releasing its final report in March 2023.

The Mass Casualty Commission

The Mass Casualty Commission⁵ had a mandate to, first, establish what had happened on April 18/19, 2020, by examining the causes, context, and circumstances that led to the mass casualty event; second, to explore related issues, one of which was gender-based and intimate partner violence; and third, to produce a report setting out lessons learned and recommendations for change to prevent a similar tragedy from happening again.

Led by three commissioners—the Honourable J. Michael MacDonald, retired police chief Leanne J. Fitch, and lawyer Dr. Kim Stanton—and supported by a team of than thirty people, the commission process involved the gathering of evidence from witnesses, experts, and others through meetings, roundtables, public hearings, and research. That evidence was then reviewed and analyzed by the commissioners and their team and, ultimately, led to a final report, *Turning the Tide Together*.

The commission focused its attention in July 2022 on the role of gender-based and intimate partner violence, holding a number of public hearings and roundtables and reviewing research it had commissioned on the subject. I was asked to participate in one of the roundtables, which explored personal and community responses to this kind of violence.⁶ As a result, I was able to attend the hearings in person for about a week. It was a powerful experience. Following closely on the heels of the CKW Inquest, which had wrapped up less than a month before I headed to Halifax for the Mass Casualty Commission, it was impossible for me not to compare the two.

There were sixty-one participants, compared to the three parties at the CKW Inquest, three commissioners rather than one inquest presiding

officer, an enormous staff team, and, understandably, significant national media attention. The commission hearings were held in a large ballroom on the top floor of a hotel that looked out on the harbour, while the inquest had taken place in a basement conference room of a hotel in a small town. We had to show ID and walk through a metal detector in Halifax; there had been no security in Pembroke.

While similar in their mandates and process, there were still considerable differences in how the inquiry and inquest operated. We enjoyed considerable informality at the inquest: local bakers arrived daily with treats for all of us, the presiding officer routinely checked in with those attending the proceedings to see how they were doing, the inquest team set aside our professional roles one evening in favour of competing in a trivia night at a local pub. (I contributed not a single correct answer towards my team's efforts.) Generally, the inquest proceedings were much less formal and adversarial than were the inquiry hearings.

The number of expert reports, police and other documents, commissioned research papers, and the like reviewed by the commissioners and their team, along with the live evidence from hundreds of witnesses and dozens of roundtable participants, is utterly daunting. It's not a surprise that the final report weighs in at seven volumes plus an executive summary, totalling more than three thousand pages.²

I won't pretend to have read the entire document, but I've dipped in and out of much of it and have several times read volume 3, which deals with gender-based and intimate partner violence. I think it is one of the most thoughtful, insightful, and comprehensive reports ever written on the subject of gender-based and intimate partner violence, and I recommend it to anyone with an interest in the subject.

A story of PTSD and intimate partner violence

Guysborough County, Nova Scotia, is a largely rural area located in the northeastern corner of the province. It has a large Black population. On January 3, 2017, a man killed his wife, daughter, mother, and then himself in an act of domestic violence homicide that deeply shook the community.

This is a complicated story. The perpetrator had been a corporal in the Canadian military who served in Afghanistan, returning to Canada with

PTSD and other serious mental health issues. Although he was eventually granted a medical discharge from the military, his mental health continued to deteriorate, despite many efforts at treatment. His marriage had become difficult since his return from Afghanistan, and he and his wife had separated a number of times before the shootings.

Two days before the triple murder/suicide, he sought help from the hospital in his community, where he was admitted for an “overnight social observation.” After seeing an on-call doctor and psychiatrist, he checked himself out the following morning. The next day he—legally—bought a firearm and then killed his family and himself.

In February 2018, an inquiry into the deaths was called under the authority of Nova Scotia’s *Fatality Investigations Act*, with Provincial Court Judge Paul Scovil appointed to lead it. The Desmond Fatality Inquiry, which finished its work in the shadow of the overlapping Mass Casualty Commission, had a similar mandate to that of the CKW Inquest. It included an examination of the circumstances of the perpetrator’s release from the hospital the day before the shootings as well as whether he’d had access to appropriate mental health services more generally, whether the family had had access to domestic violence intervention services, and whether the perpetrator should have been able to obtain a firearm. In the course of its proceedings, which ended with the release of its final report on January 31, 2024, the inquiry also examined the barriers and challenges faced by Black Nova Scotians—the perpetrator and his family were Black—when trying to access services and supports.

In the words of Judge Scovil, this was “a history of a soldier’s Post-Traumatic Stress Disorder (PTSD), intimate partner violence and a cascade of events ultimately leading to [the perpetrator] shooting his daughter, wife, and mother before turning his weapon on himself. It is a story of mental health systems encased in silos built over cracks.”⁸

The role of domestic violence death review committees

Since Ontario established its DVDRC in 2003, several other provinces—British Columbia, Alberta, Saskatchewan, Manitoba, Quebec, New

Brunswick, and Nova Scotia—have followed suit. There are some differences from one committee to another, but they are all focused on reviewing domestic violence-related deaths with the goal of preventing similar deaths in the future.⁹

DVDRCs can't offer everything that an inquest can—for instance, they conduct paper-based reviews without the benefit of live witnesses—but they are an important tool in identifying where changes are needed in the systems that respond to deaths related to intimate partner violence. Even though their work is restricted to examining deaths, there is a lot to be learned by the systems that respond to intimate partner violence about the issue generally, and recommendations for change can lead to improvements along the entire trajectory of such violence. With diverse membership, strong mandates, and effective leadership, and if the results of their work are made public, they can be an important tool in improving our responses to this violence.

Ontario's DVDRC underwent significant changes in 2023; in part because of the CKW Inquest and in part because of the leadership of the committee's then-chair, Prahbu Rajan, who was the chief counsel at that inquest. The revised committee, of which I am a member, is more diverse and representative of the province in terms of geography, race, and culture and includes a broader spectrum of subject matter experts than previous committees.

One of the first tasks of the committee in 2023 was to update its scope to reflect how much has been learned about intimate partner violence, including homicide, in the twenty years since the committee was first created. The DVDRC is now mandated to review deaths where there was violence or abuse “by a person’s current or former intimate, dating or sexual partner ... or by someone who has, had, or expressed a sexual or romantic interest in the person” that “likely contributed to the death of the person or an associated person.” To ensure these categories of reviewable deaths are interpreted in an appropriately broad manner, the document specifies that a partner includes married and common-law partners and former partners, current and former boyfriends and girlfriends, people who are or have been in a dating relationship, even if only casually, and someone who had a sexual encounter with the victim at any time, whether or not it was consensual. The committee's scope also includes situations where there was

an attempt to establish a relationship; where advances were made and rejected; where there was a perception by one person that a relationship existed, even if the perception was not mutual; where one person was infatuated with the other, whether or not that person was aware of the infatuation; where one person expressed an interest in another through an online interaction; and where one person was stalking the other.

“Likely contributed to the death” means “that it is reasonable to believe that the violence or abuse was a factor that likely led to the death.” Obviously, this definition includes homicide, but it also includes situations where the abuse may have been a reason that the person died by suicide or may have led to an accident that caused the person’s death or may have caused a serious injury that resulted in other medical complications that caused death.

“Associated persons” include family members, members of the person’s household, bystanders, and people who attempt to intervene, such as police officers. For example, if a friend, family member, or work colleague stepped in to assist a woman being attacked by her partner and was killed, even if the woman was not, that person’s death would fall within the scope of the DVDRC. Or if someone was killed by a person they did not know about but who had been obsessed with them, that death would be reviewable, as would be a suicide by someone who had been victimized by intimate partner violence.

Ultimately, it is the chief coroner who decides which deaths are reviewed. There is no doubt that this revised scope will mean more work for the committee, but it is also a strong acknowledgement of how many people are affected by intimate partner violence and how great the changes are that need to be made to prevent such deaths in the future.

The CKW Inquest

Of the hearings covered in this chapter, the CKW Inquest in Ontario is the one that I was most closely involved in. I learned a great deal from being part of that process, and I think it offers the same opportunity to others, so we’re going to look at it in some detail.

Forming the inquest

When Dr. David Cameron, regional supervising coroner for inquests, announced in late August 2019 that an inquest would be held to examine the circumstances surrounding the deaths of Carol Culleton, Anastasia Kuzyk, and Nathalie Warmerdam, four years had passed since their deaths and the perpetrator had already served almost two years of his life sentence. However, for the families of the murdered women and of the man convicted of killing them, as well as for many in the community of Renfrew County, the events of September 22, 2015, remained a fresh wound.

The CKW Inquest took place in 2022—almost three years after it was announced—in Pembroke, a small city located on the Ottawa River in Renfrew County, 145 kilometres northwest of Ottawa. Beginning on June 6, it ran until June 24, which was considerably shorter than either the 1996 May-Iles Inquest or the 2000 Hadley Inquest, but felt mighty long while it was unfolding. The jury returned its verdict on June 28, 2022.

The purpose, as set out by the coroner, was to explore the circumstances of Carol's, Anastasia's, and Nathalie's deaths "with a focus on the dynamics of gender-based intimate partner violence and femicide in rural communities." The coroner asked the inquest jury "to consider recommendations directed at preventing future deaths and protecting victims of intimate partner violence in rural communities." They were directed to consider a number of public policy issues, all in the rural context, including risk factors for intimate partner violence and femicide, challenges for victims in reporting violence and accessing services, the role of firearms, police, and justice system policies and protocols when responding to intimate partner violence, barriers to safety planning, community awareness and attitudes, as well as the perpetrator's history of violence, prior involvement with the criminal system, signs of escalating risk, and missed intervention opportunities. Finally, the issue of alternatives to traditional criminal justice system responses was to be considered.

The province of Ontario, End Violence Against Women—Renfrew County (EVA), and Malcolm Warmerdam, whose mother, Nathalie, was one of the three women murdered in 2015, were all granted standing at the inquest. This meant they (and/or their lawyers) could participate in pre-inquest planning meetings with the coroner's office, identify issues they felt the inquest should explore, call witnesses, question witnesses called by

others, and participate in developing possible recommendations to present to the jury for consideration.

Engaging the community

I was, in many ways, part of this story long before 2015. While I don't live in Renfrew County, much of my work over the past decades has been in rural and small communities, and I had been doing work with the women's community in Renfrew County since approximately 2007.

On September 22, 2015, I was in a meeting in Toronto when one of the government attendees received an urgent message about the shootings. I spoke immediately with my colleagues at the Women's Sexual Assault Centre of Renfrew County, who reported that they had little accurate information but had decided to cancel that night's Take Back the Night March and to take extra safety precautions in their workplace. They didn't know anything for certain at that point but believed that some women had been killed.

A week or so later, the ripple effect on those doing violence against women work in the community was beginning to take a toll. Unable to think how else I could help, I drove to Pembroke with a pot of homemade soup, bread, and a tray of brownies fresh from the oven. I sat around a big table at the sexual assault centre with a group of front-line workers—some of whom had worked with one or more of the victims, a few of whom had worked with the perpetrator, and all of whom had long histories of working on the issue of gender-based violence—and, brought closer by sharing a meal, they talked with me about the horror of what had happened and their own trauma at the loss of clients, relatives, and friends. In a small community, everyone really does know everyone, a reality that took on true meaning for me that day.

In the days, weeks, and months that followed, I spent a lot of time in the county, as locals call it, sometimes attending vigils and community meetings, sometimes facilitating them, and finding small ways to support the front-line folks who continued to be at the epicentre of the community reaction to the murders. On December 6, 2017, I was present in the county courthouse in Pembroke, in a courtroom packed to the rafters, while flags outside flew at half-mast to commemorate the National Day of Remembrance and Action on Violence Against Women, to hear Ontario

Superior Court Justice Robert Maranger deliver a life sentence to the perpetrator, who had been found guilty of two counts of first-degree and one of second-degree murder.

When the inquest was announced two years later, EVA decided to seek standing, but also sought a way to ensure that the voices of community members, many of whom had been profoundly affected by the murders, would be heard in the process. They asked me to hold community consultations in order to prepare a report that could be submitted to the inquest as evidence. And so began some of the most moving, inspiring, and difficult work of my life. As I wrote in the conclusion to my inquest report, when describing the importance of the community consultation process:

I've learned about the barriers and challenges in rural communities—for victims/survivors as well as for their friends and families, those who provide services to them and the whole community.

I have also seen resilience, strength, courage and wisdom in those people as they live with, escape from and work to respond to and, ultimately, eradicate intimate partner violence.

The inquest will hear from many experts who have important knowledge to share. The community consultation process and this report capture a different kind of expertise: expertise that comes from living in a rural community where, on September 22, 2015, intimate partner violence took its worst form—homicide—three times in one morning.^{[10](#)}

As I quickly discovered when we began discussions in 2021 about how to engage the community and what we wanted to learn from them, while the murders had happened more than six years before, many people's emotions were as raw and fresh as if they had occurred much more recently. Some people were angry that there was going to be an inquest: they did not want to expose the county's shame to the rest of the province or country. Others were cynical: they knew how few recommendations from past inquests had actually been implemented and saw no reason to hope for any different outcome this time. Some did not understand what an inquest was, some did not trust people "from away" to understand the complex realities of rural life, and some wanted to move on rather than reopen a still-healing wound.

Nonetheless, through in-person group consultations, one-on-one conversations face to face and on the telephone, and private online consultations, we heard from many people who were prepared to engage in the hope that, perhaps, their input would lead to changes so that nothing like this would ever happen again.

Those of us who work with survivors of gender-based violence have learned that they are the experts of their own experiences. Through the consultations, I learned the same thing about communities that have survived a tragedy like this triple femicide. Renfrew County folks, few of whom were experts on intimate partner violence or femicide, were the experts of their own community. We talked about the impacts the murders had had on them, which quickly sorted themselves into themes. These were the most commonly expressed feelings:

Guilt: “Was there something I could have done?” one person wondered out loud.

Helplessness and despair: “How many women have to die? Does anyone really care?” asked another.

Anger: “None of these women did anything wrong. They followed the rules. No matter what you do, it isn’t enough,” said one participant.

But people also wanted to talk about what needed to change, and they called for, among other things:

- systems accountability;
- changes to police and legal-system responses to intimate partner violence;
- improvements to communication and information sharing during an event like the triple femicide; and
- new laws, such as Clare’s Law, which would allow a person to get police information about a partner’s possible past violence, and changes to existing laws.

They also understood the role that the community needs to play to keep women safe. Especially in rural communities, where services may be far away, police response times may be slow because of long distances, guns are close at hand, and cell service is erratic, a woman’s safety really does rest in the hands of her community. As one consultation participant said,

while better laws and improved systemic responses to intimate partner violence are needed and professionals need to do their jobs better, at the end of the day, for a woman to survive, she has “to live in a community that takes responsibility for [her] safety.”

Creating a trauma-informed space

Inquests are legal proceedings, which means certain rules and protocols must be followed. For instance, no one knew the names of the five members of the jury and people in attendance, including the parties, witnesses, and lawyers, were not permitted to speak with them at any time during the inquest. Those of us who were witnesses had to affirm that we would tell the truth. People had to be recognized by the presiding officer before they could speak. We couldn't videotape or take photographs in the inquest room. Even so, the atmosphere both inside and outside the inquest room and the formal process was trauma-informed.

As EVA's lawyer, Kirsten Mercer, said to me:

EVA was the heart and soul of the inquest, both in terms of setting the tone as a feminist, trauma-informed process and in terms of the human presence. The continuity. The accountability that arose from having EVA present in the hearing room every day. We understood that they were there for the many, many women who could not be there. EVA held their proxy, and I believe that in that way the participants in the formal inquest were constantly reminded of the fact that it was about a real community, real families ... and a very real and ongoing problem.^{[11](#)}

EVA bookended the inquest with public vigils at the Women's Monument in Petawawa, which honours women in Renfrew County who have been killed by men. The vigils provided opportunities for people to share their fears and hopes for the inquest, reflect on the lives of these and other victims of intimate partner violence, and contemplate the possibilities that lay ahead. I know I was not the only one who found these rituals helpful; in fact, I returned to the monument on my own a few times over the course of the inquest and always left feeling regrounded in why I wanted to be part of this process.

Within the inquest itself, the coroner's office and the presiding officer managed to create a safe and even welcoming space for participants. A mental health worker was present throughout the proceedings for anyone who needed emotional support. She checked in with the major players daily and led meditation and breathing exercises during the lunch breaks. Two hotel rooms were booked to provide quiet space for anyone who needed a break. The presiding officer's gentle and kind leadership also contributed significantly to the trauma-informed atmosphere.

There was a genuine atmosphere of collegiality on the part of the parties and lawyers, which, I have been told, is not always the case at inquests. While inquests are, because of their mandate, generally less formal and adversarial than many other kinds of legal proceedings, tempers can flare and parties or their lawyers can be quite aggressive, especially when questioning one another's witnesses. We saw little of that at the CKW Inquest. Perhaps it was nothing more than good luck in the personalities of those involved, or perhaps it showed the serious commitment made by all parties and lawyers to focus on the real business of the inquest: examining the circumstances of Carol's, Anastasia's, and Nathalie's deaths with the goal of finding ways to stop such deaths in the future.

But a trauma-informed atmosphere didn't mean there were no difficult days or disagreements. Three women don't get killed by a man with a long track record of intimate partner violence without something having gone wrong.¹² The inquest's job may not have been to find fault, but to look forward we had to examine the past, and this created moments of tension, defensiveness, and open disagreement in the room.

Witnesses and evidence

In all, the jury heard from more than thirty witnesses and read hundreds of pages of evidence. Witnesses included survivors, subject matter experts, front-line violence against women workers, police officers, victim services staff who had worked with two of the murdered women, probation staff, and high-level bureaucrats responsible for the programs that were being closely examined. Much of the evidence was extremely emotional in content, so the boxes of tissues spread throughout the room had to be replaced on a regular basis.

No doubt each of us in attendance have different moments that remain seared in our minds. For me, those moments began before the inquest even started. At the second community consultation, on a beautiful Saturday afternoon in April 2022, a group of about a dozen women gathered in a small community centre to talk about the impact of the femicides on the people who lived in the area. One participant, who facilitated a girls' empowerment group, described a session held a few months after the homicides. In a discussion about managing conflict in relationships, a twelve-year-old girl had said: "Sometimes you argue, and sometimes they kill you."

That sentence has seldom left my heart in the many months since I heard it. There's an acceptance of the inevitability of abuse in those words that I find absolutely chilling. She might as well be saying that sometimes she likes to have a banana for breakfast while other times she prefers a bowl of oatmeal.

Equally powerful was the moment on the inquest's first day when Malcolm Warmerdam urged the jury not to think of the man who had killed his mother as a monster. He reminded us that those who harm others are people like the rest of us, with both good and bad in them. If we want to truly keep victims and survivors safe, he said, we need to find ways to hold them accountable that also offer the opportunity for healing and learning, because causing further harm to abusers does not help victims. Malcolm was right, of course, and his words have resonated with me ever since.

Another key moment for me was the comment of a victim services worker who told us that one of the victims had put a multi-faceted safety plan in place to minimize the risk of harm to her and her children, whether they were at home or in the community. Many of her strategies—using a tracker, having a panic button in her home, and the like—are common for women trying to protect themselves from an abusive ex-partner. But this woman also bought a gun (legally), learned how to use it, and kept it handy. She backed her car into parking spots in case the perpetrator showed up and she needed to make a quick exit. Chillingly, she advised her two teenaged kids, if the perpetrator showed up, to "scatter and run, so he can only hurt one of us." I haven't stopped thinking about how isolated and fearful a woman must feel to have to give such instructions to her children.

The jury couldn't have paid more attention, no matter who was testifying. These five random people, plucked from their usual routines to spend three weeks of the most beautiful month of the year in a conference room in a hotel basement, listened day after day with laser-sharp focus. When I testified, first as an expert witness on intimate partner violence in Ontario and later to present my community consultation report, I could feel the intensity of their concentration even before they asked their questions.

And they did, indeed, ask questions. The jurors had an unerring ability to tell when a witness was obfuscating; when they didn't get a direct answer to the question they had asked, they asked it again and, sometimes, again and again, until the witness provided a proper response or the jurors realized there was no hope of getting one. The members of the jury wanted to know everything they possibly could about intimate partner violence, community services, and government policies. They even asked for permission to take their inquest binders home on the weekends so they could put in more time learning.

By the time the last witness had testified and the final exhibit had been added to the jurors' binders, all of us in the room had learned a lot. As an EVA member said, after listening to one day's particularly intense evidence: "Anyone who is observing this inquest is getting a free master class in intimate partner violence, taught by some of the biggest experts in the country. It's an unbelievable opportunity for people to learn."

Media

This inquest story would not be complete without some comments about the media. A story that takes place in a rural community—even a story about three dead women—doesn't usually generate much sustained media attention. Unusually, the inquest did just that. Local, regional, provincial, and national media covered the CKW Inquest extensively and intelligently, and that coverage has continued since the inquest ended. Perhaps this was because of the increased media attention to and awareness of intimate partner violence during the pandemic, when levels of intimate partner violence soared to all-time highs. Perhaps the overlap with the Nova Scotia Mass Casualty Commission, which understandably generated massive national media coverage, contributed to the attention the inquest was given. Perhaps it was an otherwise slow news month. Whatever the reasons,

people living far from Renfrew County were provided with a close look at the proceedings in Pembroke's Best Western Hotel and Conference Centre, hearing about the goings-on from journalists on a daily basis.

I have always treated the media as allies in the work I do. I see our relationship as symbiotic: sometimes I need the media, sometimes they need me. I try to find a respectful way to let them know when they don't get something right, and I always let them know when they do a great job. On many days during the inquest, I did multiple interviews and podcast appearances. Almost without fail, I found the journalists to be well informed and respectful, and I much appreciated the opportunity to tell this story from a small rural community to people everywhere in Canada.

There are other reasons for the ongoing media interest, including, importantly, hard work done by women's advocates in communities—especially small and rural ones—across Ontario to encourage the provincial government to implement the recommendations, so new stories have continued to come. It is unusual for the media to follow a story for so long and, because most of the coverage has been of very high quality, it continues to have a significant and positive impact.

The verdict and recommendations

Following final submissions from the parties and their lawyers and instructions from the presiding officer, the jurors retired to deliberate. When those of us who had been involved with the inquest, including the media, reassembled four days later, the jury had reached its verdict and presented answers to the five questions as required of all inquest juries, as well as its eighty-six recommendations.

In an emotionally laden atmosphere, the jurors took turns reading each recommendation into the record, a process that took more than an hour. When the jury foreperson read recommendation number one, which called on the province of Ontario to declare intimate partner violence to be an epidemic, it was as though the room let out a collectively held breath. As we looked at one another, many of us began to cry. This was not a recommendation that had been suggested by any of the parties, witnesses, or lawyers; it's what the five members of the jury thought was a logical next step based on the evidence they had heard during the inquest. It was brilliant in its simplicity. The jurors continued to read, the media frantically

took notes, and some of us—including me—began to dare to hope that, this time, things were going to change.

The jury's recommendations, sixty-eight of which were directed at the Government of Ontario, covered a lot of ground: oversight and accountability, collaboration and communication, funding, education and training, addressing perpetrators, interventions, safety, firearms, the Domestic Violence Death Review Committee, and law reform.¹³

Most powerful to me were the first five recommendations, which focused on oversight and accountability. After all, inquests and death review committees have made hundreds of recommendations over the years, few of which have seen much action. Perhaps some oversight and accountability might spur those with the power to make change into doing so.

In addition to calling for intimate partner violence to be treated as an epidemic, the jurors recommended that an independent intimate partner violence commission be established. They set out a proposed mandate and structure, called for the creation of a survivor advocate position at the provincial level, and said that a provincial implementation committee should be created to oversee consideration of the eighty-six recommendations. Together, these measures would create a level of public accountability we've not seen to date. The recommendations were submitted to the various bodies to whom they were directed, and a community-based advocacy campaign began almost immediately to call for their implementation.

Remarkably, media interest in the inquest continued long after the verdict. Some of this was because of the sad reality that women continued to die at the hands of men who said they loved them—in fact, the evening before the jury returned with its verdict, a mother and daughter were killed just a couple of hours away in Ottawa, by a young man in the neighbourhood who had an obsession with the other daughter in the family. That daughter was also injured when the police shot and killed the assailant.¹⁴

Do inquests, inquiries, and death review committees make a difference?

Five years after the jury released its recommendations in Ontario's first "super inquest" into domestic violence homicide—the May-Iles Inquest—Fiona Sampson, one of the lawyers representing METRAC and OAITH,¹⁵ which jointly had standing at both that inquest and the subsequent Hadley Inquest, wrote a paper in which she examined the value of inquests as a tool for increasing women's equality rights. She argues that inquests deserve to be seen as having as much legitimacy in this work as other, more widely recognized strategies such as litigation and law reform, noting:

Participation in a coroner's inquest presents an opportunity for potential reform on a broad and system basis, with the opportunity to address a wide range of legal and social issues.... With respect to an issue such as domestic violence, which is systemic in nature, a coroner's inquest offers the unique opportunity to apply an expansive analysis that addresses the broad range of intersecting factors that contribute to the experience. While a criminal justice response has been at the forefront of contemporary approaches to domestic violence in Canada, domestic violence is not only a criminal law issue. The criminal justice system is not the only means through which the needs of abused women should be addressed....

Parties with standing at a coroner's inquest can introduce evidence and recommendations for the jury's consideration that are broad and comprehensive, as well as creative and original. The regular restrictions associated with the availability of traditional remedies do not apply.¹⁶

Sampson acknowledges that there were few direct and substantive changes as a result of the May-Iles Inquest, but says there were what she calls "significant victories for women's equality rights," among which she lists an increased public awareness of intimate partner violence.

Prabhu Rajan, who was the lead lawyer for the coroner's office at the CKW inquest, had this to say about the value of inquests:

I absolutely believe that inquests are an excellent tool for systemic change, especially when done in a collaborative manner.... There are often criticisms that inquest recommendations are non-binding. However, I don't believe limited time presenting evidence in front of a layperson jury is the best mechanism to make policy or law; rather, the process should highlight issues and then allow those actually in control of policy or law to engage in a change process, which should include appropriate consultations.¹⁷

EVA, which had sought standing “to ensure that a feminist analysis of femicide and violence against women was presented at the inquest ... and to have rural reality perspectives brought forward,” felt its goals were achieved “by the numbers of excellent, informed testimonies presented by both local and provincial experts on gender-based violence. This testimony was highlighted by mass media coverage, which reached a wide range of people provincially and nationally. The inquest became an opportunity for enhanced public education and awareness about IPV.”¹⁸

Kirsten Mercer, the lawyer who represented EVA at the inquest, said this to me about the process:

While Ontario has been very well served by the Domestic Violence Death Review Committee in terms of the excellent scholarship and deep understanding that the committee has generated, I think the fact that IPV homicides are reviewed by it rather than at an inquest has tended to render these deaths less visible and this has diminished the level of urgency that accompanies the DVDRC's recommendations. The DVDRC's work has not generally been conducted in public and, either by accident or design, its excellent work has far too often been ignored by policymakers.

Another important aspect of the inquest process is that it is more likely to shed light on facts that point to systemic failures, which parties might not voluntarily divulge to the DVDRC. The fact that parties can compel witnesses to testify and require production of documents means that the process is more likely to unearth information that might not be voluntarily produced.

There are also obvious drawbacks to this kind of public process: it subjects the community to the possibility of retraumatization, it may come years after the deaths being examined, it is an expensive and time-consuming process, and it places real demands on community organizations.

These are all important reflections. It's easy to dismiss inquests, inquiries, and the work of domestic violence death review committees as a waste of emotion, time, and money because, often, their recommendations gather dust rather than being implemented. But the CKW inquest created a space for survivors and others to share their stories, allowed for an expansive analysis of the issues that would never have happened in a criminal or family court trial, brought the story of intimate partner abuse in rural communities to the attention of largely urban decision- and policy-makers, increased public awareness about intimate partner violence and rural realities, and inspired people to call for systemic change.

However, inquests, inquiries, and DVDRC reports on their own are not enough. Their reports and recommendations do not have legally binding authority, so they can be—and are—ignored. Governments with the power to implement their recommendations often do so, if at all, in a piecemeal manner that does not provide the system-wide change needed or that can sometimes make matters worse than they were before.

It's hard to inspire people to call for systemic change over a long period of time, especially when they don't see much in the way of positive responses to their efforts. We need legislative changes that create systems to oversee the implementation of recommendations that arise from the work of inquests, inquiries, and death review committees. Those oversight committees need to be permanent, include both government and community representation, have a meaningful budget, be free to speak with the public and media, and have a mandate to report annually to the government.

I don't know where I land on the value or lack of value of these kinds of processes. At my essence, I am a hopeful person—you can't do the work I do if you don't believe that change is possible. And we have seen changes come from these processes—albeit slowly, inadequately, and often only after years of hard advocacy work.

When I started writing this book in late 2022, I felt more hopeful than I had in a long time, not because those with the power to make change had embraced the recommendations, because they hadn't, but because people across Ontario—not just violence against women survivors and advocates—were speaking up and demanding change. Communities were taking action to implement recommendations that didn't require provincial or federal involvement.

But by the time I finished writing in early 2024, my hopefulness was receding. Women and children continue to die; thousands more flee their homes only to face poverty and a lack of affordable housing. Legal systems that should protect survivors and the players in those systems still don't properly understand the prevalence and complexity of violence in families, despite the guidance provided by the recommendations from the CKW Inquest, the Mass Casualty Commission, and the Desmond Fatality Inquiry.

What's happened in Guysborough, Portapique, and Renfrew County?

Desmond Inquiry recommendations

The twenty-five recommendations contained in Judge Scovil's final inquiry report cover a wide range of issues. Many are directed at improving the response by the Canadian military, Veterans Affairs, and associated bodies to the mental health issues, in particular PTSD, with which so many veterans struggle. There are recommendations for increased collaboration and communication among service providers. A number of recommendations speak specifically to the needs of Nova Scotia's Black communities, calling for improvements to services. For example, Recommendation 7 suggests that Black and diverse mental health providers be recruited "to provide culturally informed and responsive care."

There are recommendations about domestic and intimate partner violence: adequate funding for a men's helpline and a public information campaign to inform people about intimate partner violence programs. The need for increased awareness about intimate partner violence, risk factors, and safety planning by front-line professionals across systems is called for

in Recommendation 12. Scovil calls for a police standard requiring all police agencies to use an intimate partner violence risk assessment tool in calls involving domestic violence, whether or not criminal charges are laid.

There are nine recommendations with respect to firearms.

The report concludes with a recommendation that Nova Scotia “create a formal implementation committee comprising of senior government officials from relevant departments to oversee the implementation of the Inquiry’s recommendations.”

The sister of the perpetrator had this comment about the report: “This is the step in the direction that we’ve got to continue to go with. This isn’t the last step of the journey.... There’s still a large number of us still hurting after seven years of carrying the pain.”¹⁹

Mass Casualty Commission implementation

In Nova Scotia, official steps to begin implementation of some of the key Mass Casualty Commission’s recommendations got under way quickly. The Progress Monitoring Committee was established within two months of the commission’s final report and met within six, with retired justice Linda Lee Oland as its founding chair. The committee’s terms of reference were soon set and its sixteen members selected. They include family members of those killed as well as a wide array of community representatives, one of whom represents the Nova Scotia gender-based violence advocacy and support sector.

CKW Inquest responses

On September 22, 2022, three months after the inquest ended, a new monument was unveiled. Located in Water Tower Park in Barry’s Bay, and a sister to the Petawawa Women’s Monument, it is a community art project designed to commemorate the lives of Carol, Anastasia, and Nathalie.

In the months since the inquest ended, more women in Renfrew County and across Ontario have been killed by their partners or former partners. Between November 26, 2022, and November 25, 2023, according to the Ontario Association of Interval and Transition Houses, 62 women were killed in Ontario in acts of femicide: 19 women were killed by a partner or former partner, 7 by an adult son, 1 by her grandson, and 3 by other male family members. In 13 cases, the relationship between the killer and victim

was unknown. In that same period of time, in two separate incidents, 4 children were killed by their fathers in the context of intimate partner violence.²⁰ Intimate partner violence is clearly an epidemic.

Official response to the inquest recommendations has been mixed. The Government of Ontario has provided two official responses, neither of which shows a strong commitment to implementing any of the sixty-eight recommendations directed at it. The Chief Firearms Officer believes the recommendations directed at its office have either already been implemented or are not within its jurisdiction.

The response from the federal government has been somewhat more positive. Because the recommendations directed to that level of government were focused on criminal law, the response has come from the minister of justice / attorney general rather than from the minister for women and gender equality. It is encouraging to see that the federal government describes gender-based violence as an epidemic, as called for in the first recommendation, especially given the refusal of Ontario's government to make such a declaration.²¹ As is common to government responses, this response spends a lot of time referring to work it has already done and makes few absolute commitments about the future, but generally, there seems to be an openness coupled with an interest and willingness to collaborate and consult, both of which are welcome.

The Office of the Chief Coroner and the Information and Privacy Commissioner, both provincial entities, have embraced the recommendations aimed at them and, at the time of writing, are well on the way to ensuring their implementation.²²

What has happened outside of the formal, institutional responses to the inquest recommendations is much more interesting and exciting, and it serves as a powerful example of grassroots democracy in action. Soon after the verdict, violence against women organizations across Ontario, especially those in small, rural, and northern communities, came together to discuss how they could support implementation of the recommendations. Cross-sectoral collaborations and cooperation were revitalized in many communities. Municipal and county councils across the province voted to implement the first recommendation, declaring intimate partner violence to be an epidemic in their communities, regardless of what the province might or might not do. By early 2024, ninety-four communities, representing more

than 70 percent of the province's population, had made the declaration.²³ In short, individuals, organizations large and small, and communities have taken action to increase safety for women and children by holding systems accountable for their role in responding to intimate partner violence.²⁴

Follow-through and accountability

The 86th and final recommendation of the CKW Inquest jury called on the parties to “reconvene one year following the Verdict to discuss the progress in implementing these recommendations.” We did just that.

On the morning of June 28, 2023, the coroner's office held a meeting that was attended by representatives from the federal government, the office of the information and privacy commissioner, the chief coroner's office, and, virtually, the provincial government. Those representatives shared what steps, if any, they were taking to implement the recommendations directed to them with the four members of the jury who were able to attend, the parties and their lawyers, and some witnesses. Those in attendance were able to—and did—ask questions, which were at times probing and challenging.

On June 27 and 28, Luke's Place Support and Resource Centre for Women and Children convened a two-day women's conference in Petawawa, close to the Women's Monument that had served as an important gathering spot during the inquest the previous year. More than sixty women's advocates attended and engaged in workshops to increase their skills and confidence in doing law reform advocacy and working with the media. On the final afternoon, the participants from the coroner's office event, with the exception of the Government of Ontario representatives, joined the women's conference for a public meeting to discuss implementation of the inquest recommendations. About sixty members of the community also participated in this event, as well as local and national media. It was a deeply moving afternoon, as women's advocates rose one after another to address the parties with the responsibility to implement the recommendations, calling on them to be accountable to the women of Ontario by taking action.

Because of ongoing community interest in seeing the inquest recommendations implemented, another gathering was organized for the second anniversary of the inquest verdict. It was held in Barry's Bay,

Renfrew County, where a stone mosaic monument was created to honour the three women whose deaths led to the inquest. More than eighty people from across Ontario, including survivors, front-line workers, government policy people, and family members of murdered women, came together to talk about how to continue the work and to remember all the women and children whose lives have been lost to domestic violence homicides.

There is no doubt that Ontario communities have rallied to the task of advocating for implementation of the CKW Inquest recommendations. Perhaps this community-driven approach can serve as an inspiration to other parts of the country, showing how grassroots activism and advocacy can advance the work to keep communities safer for everyone.

Chapter Two

Understandings of Gendered Violence

The Castleton murders

While 1963 is hardly ancient history, the story of the circumstances that led to the Castleton murders reads like something that took place in the distant past. It serves as a good reminder that many of the laws, programs, and services as well as rights for women that we take for granted in the early decades of the twenty-first century have not been with us for very long.¹

When a former United Church minister murdered his wife, Florence, his daughter, Pearl, his sister Gladys, and Florence's daughter from a subsequent relationship, Patricia, that year, the victims did not have access to such supports as shelters, mandatory charging policies, or criminal laws against stalking. Family laws offered little to wives. It was much more difficult for a wife to initiate divorce proceedings than for a husband to do so, and since Florence's husband didn't want a divorce, she remained his wife despite having two subsequent relationships in which she had children. Women were expected to stay married in those days, no matter how unhappy or unsafe they might be. Violence within the family was very much a private matter, kept within the walls of the family home, with no police or other intervention. Neighbours and family members turned the other way rather than involve themselves.

Florence had left her husband more than once because of his violence and need for absolute control, but she always returned—until 1946, when she left with two-year-old Pearl, travelling to and settling in eastern

Ontario, where she eventually met her next partner, A.D. Her husband was not far behind her, though, and over the next sixteen years and despite many moves made by Florence and her family, he was always nearby. He came and went from Florence's home, often on a daily basis, regardless of how she and her subsequent partners felt about it. Often, he lived in a shack he built just yards away from wherever Florence was living. It's not hard to imagine how disturbing this must have been for her. To try to stay ahead of him, the family moved often, sometimes suddenly, leaving belongings behind them. But he would always find them, come marching through their door on some pretext, and assert his control. Then he'd build a shack nearby.

The fact that Florence and A.D. were not married and, under the law of the time, their three children were illegitimate, coupled with the abuser's ominous presence around the family, meant they did not have much support from neighbours in the small and rural communities where they lived. In fact, when A.D. died in 1962, Florence and the children were left to stand at the back of the church for his funeral.

The abuser's obsession with both Florence and Pearl, by then in her late teens, continued to grow, and in A.D.'s absence, he took more and more control over their lives, including their finances. The tipping point that pushed him to murder not only Florence, who was pregnant, but his daughter, who was also pregnant, his sister, who had become an ally of Florence over the years, and Florence's youngest daughter with A.D., Patsy, may have been his discovery that Florence and her new partner were planning to take the younger children and move away.

I was nine years old—already dreaming of my life as a female Perry Mason—when these events took place, and yet, when I read *The Castleton Massacre*, the 2002 account of the case by Sharon Anne Cook and Margaret Carson, I kept having to remind myself that this was a story from my lifetime, so old-fashioned did much of it seem. At the same time, I was struck by how many elements of the story still resonate today.

Even in the twenty-first century, women who are subjected to abuse are often afraid to tell anyone about what is happening to them. Too often, when they do turn to others—friends, family members, religious leaders,

the police—they are not believed or they are judged. Florence was judged because she had left her husband and lived without benefit of marriage with other men, even daring to have children with them.

In the 2020s, women are likewise judged and found lacking in some way that allows society to ignore the abuse they are being subjected to or to blame them for it. Lisa Banfield was victimized for almost two decades by her partner, who later shot and killed twenty-two people in Nova Scotia. Yet, she was vilified in the months following the Portapique mass casualty event. She should have run for help instead of hiding; she must be lying because it was too cold for her to have spent the night in the woods. Why hadn't she told anyone about his abuse? She was even charged criminally for having obtained ammunition for the perpetrator's illegal firearms, even though there was no evidence that she had any knowledge of his plans. While those charges were later withdrawn, they should never have been laid.

In some ways, it's even harder to escape a persistent abuser now than it was in the 1960s. There is no need for an abuser to follow his victim physically, building a shack outside her house. Technology allows someone with even modest skills to spy on, stalk, publicly humiliate, terrify, and control their partner from anywhere in the world. The law has not yet caught up with the many forms of tech abuse, especially when it takes place across international borders.

Certainly, there are more and better social services to support survivors who leave their partner than there were when Florence was attempting to keep herself and her family safe. Women's shelters, social assistance, better laws, police training, and child protection services can all be helpful. But they are inadequate, in part due to a lack of sufficient funding. Programming for abusers exists now that wasn't available at the time of the Castleton murders, but as with services for survivors, funding is inadequate and often the political will to give that programming teeth is not there.

Social attitudes and supports

Violence against women in the family is not new to this century, or the last, or the one before that. It has existed for millennia across the globe, cultures, religions, and every other way we can categorize people. At times it has

been endorsed—subtly or not so subtly—by systems of law and cultural and religious edicts. Some systems have openly granted more rights to men than to women; others have been misinterpreted to support such an understanding. Often women were seen as the legal property of men, with no inherent rights of their own, which has affected social attitudes about and responses to violence against women for hundreds of years.

For example, rape laws in the past often saw the woman as the property of her husband or father, so the crime was seen as having been committed against him rather than her. Much as the notion of “male honour” is popularly attributed to non-white, non-European cultures, at one time, British common law saw rape as an assault on male honour and property. Sometimes the rapist was required to pay a penalty—to the husband or father. Sometimes the husband or father was given the opportunity to impose a physical punishment on the rapist. Sometimes the husband or father was allowed to rape the wife of the rapist.

Because women were seen as the property of men, it took a long time for the rape of a woman by her husband to become a crime against her. Some governments began to criminalize marital rape in the 1970s. Canada did so in 1983, but in approximately forty-five countries around the world it is still not a crime for a man to rape his wife.

While laws, religious and cultural edicts, and public attitudes about violence against women have progressed over time, the extent and seriousness of such violence, especially when it takes place within the context of an intimate relationship, continue to be underplayed in virtually all cultures.

In 1967—four years after the Castleton murders and the year Canada celebrated its hundredth birthday—Prime Minister Lester Pearson established the Royal Commission on the Status of Women to “inquire into and report upon the status of women in Canada, and to recommend what steps might be taken by the federal government to ensure equal opportunities for women in all aspects of the Canadian society.”² Perhaps the attitude of Canadians towards the commission’s work was well summed up in the glib words of Gordon Donaldson, then host of CBC’s television program *Newsmagazine*: “Basically, the question is very simple. What do women want? Are they getting what they want? And do they really want what they want?”³

Canadian women had achieved some victories in the fight for equality by 1967: they could vote, they had been recognized under the law as “persons,” women who worked for the federal government no longer automatically lost their jobs when they got married, and some provinces provided maternity leave. But it was still illegal to distribute information about birth control, abortion was a criminal offence, and women were earning less than sixty cents for every dollar earned by men (by 2019, our wages had only increased to 71 percent of men’s earnings⁴).

In commission documents, Florence Bird—its chairman (sic)—is identified by her married name, Mrs. John Bird. She and the other commissioners held hearings across Canada, during which they heard from dozens of women who talked about the violence to which they were being subjected by their husbands. Yet the final report, released in 1970—seven years after the Castleton massacre—contained 167 recommendations on a wide range of issues affecting women, but not a single one about violence within the family.

The 1970s brought a lot of attention and activity to the issue of woman abuse, as it was often called then. In 1973, the first shelter for abused women—Interval House—opened in Toronto, thanks to the hard work of a core of dedicated volunteer feminists. There was no government funding, which meant pretty much everything from furniture to food had to be donated. In the same year, the first rape crisis centre—Vancouver Rape Relief—opened in British Columbia. Across the country, other similar services for women who had been subjected to violence were opening.

In the mid to late 1970s, women’s and community organizations along with health professionals began to identify that the needs of survivors of sexual assault were not being met in hospital emergency departments. There were often extremely long wait times for survivors to be treated, and the doctors and nurses were inadequately trained to provide a trauma-informed response. To respond to this deficiency, the Ontario government decided to create specialized emergency response systems for sexual assault survivors who came to the hospital. The first hospital-based sexual assault treatment centre opened at Toronto’s Women’s College Hospital in 1984. The mandate of treatment centres in the province was expanded in 1998 to include domestic violence, and in 2003 to address the needs of child sexual abuse victims as well. There are now thirty-seven such centres across

Ontario, although people in rural and remote regions may have to travel long distances to access in-person service.

The 1970s burst of activity brought the issue of violence against women out of the shadows and into the public eye for the first time in Canada.⁵ In 1978, Vancouver held Canada's first Take Back the Night March to protest against the violence and fear encountered by women in public spaces at night, and by 1981 similar marches were being held each fall across the country. The Canadian Advisory Council on the Status of Women, established in 1973 by the federal government on the recommendation of the Royal Commission on the Status of Women, commissioned sociologist Linda MacLeod to write the first national study on violence in intimate relationships, *Wife Battering in Canada: The Vicious Cycle*, published in 1980, which brought the issue even further into the light.⁶

In 1982, the equality provisions of the *Charter of Rights and Freedoms* created a legal framework for formal equality for women in Canada; in particular, for those of us who already enjoyed many privileges because of our skin colour, class, gender identity, sexual orientation, education, and more. Even for us, substantive equality has been elusive; for women from marginalized communities, meaningful equality has largely remained well out of reach.

The experience of New Democratic Party member of Parliament Margaret Mitchell is a very public example of how formal equality did not always equal substantive equality. She rose in the House of Commons shortly after the *Charter* came into effect to ask what Prime Minister Pierre Trudeau's government planned to do to assist battered women, noting that one in ten women in Canada was regularly beaten by her husband. Her next remarks were drowned out by laughter from some male parliamentarians, as well as by this remark from one to another: "I don't beat my wife. Do you, George?"⁷

Public awareness about violence against women was increasing, and initiatives began to create safe places for survivors of intimate partner violence and better responses to both intimate partner and sexual violence. But women continued to be subjected to harassment, abuse, and violence in their homes, workplaces, and schools as well as in public spaces.

On December 6, 1989, fourteen women students at École Polytechnique in Montreal were killed by a man who blamed feminists for his troubles. I

remember the evening as though it were yesterday. My partner and I had managed to escape the usual chaos of our child-filled house for what we hoped would be a quiet hour or two at our local pub. Ours was a busy household, as blended families tend to be. We both had full schedules, and it sometimes felt as though our conversations were limited to checking on children's whereabouts and who was on dinner prep duty that day. Our plan for the evening of December 6 was to have a conversation that wasn't about laundry or hockey practice. Such was not to be: no sooner did we each have our drinks in front of us than a friend—directed to the pub by one of our kids—burst through the door to tell us about the shooting.

I was a law student at the time, and the evening turned into a long night of trying to sort truth from fiction in the sensationalistic media reports we were hearing. I also took a lot of anxious phone calls from young women students, many of whom, along with me, had been involved earlier that fall in a campaign calling on the university to respond appropriately to misogynistic signs placed in some men's residence windows in response to an anti-rape campaign on the campus.⁸

It was a difficult night—primarily for the victims and for their friends and families, but also for people across the country generally, as we were forced to confront the reality of misogyny in Canada. The night culminated for me in a phone call I took from an American journalist who, knowing about our rape protests at the university, asked me if I felt responsible for the actions of the Montreal shooter. Inexperienced though I was with the media at that time, I had the presence of mind to hang up on him and unplug the phone for the rest of the night.

In response to the Montreal Massacre, the White Ribbon Campaign, with a focus on involving men in the work to end violence against women, was formed in 1991, and the federal government declared December 6 to be a National Day of Remembrance and Action on Violence Against Women.⁹

Despite the hope the *Charter* inspired in 1982 to create substantial equality for women, its failures to do so are many. For example, the National Inquiry into Missing and Murdered Indigenous Women and Girls, held between 2016 and 2019, produced 231 calls for justice to address past and ongoing harms to Indigenous women, girls, and 2SLGBTQIA people.¹⁰ Despite the public attention that the inquiry drew to the impact of past and ongoing colonialism on First Nations, Inuit, and Métis women and

girls and gender-diverse people, very little progress has been made to implement those calls to action: in June 2023, the CBC issued a report card on progress, finding that only 2 of the 231 recommendations had been fully implemented and that work on more than half had not been started.^{[11](#)}

There are many more such examples. Here's a sample: the lack of recognition of the dangers for women with abusive partners when stay-at-home protocols were put into place in the early weeks of the COVID-19 pandemic; ever-increasing levels of gender-based violence, including femicide; the lack of true pay equity; the fact that—outside of large urban centres—it remains difficult for women in many parts of Canada to access abortion and other reproductive services; barriers to secure immigration status for newcomer women fleeing abuse either here or in their country of origin; and the lack of a housing strategy that directly addresses the unique needs of unhoused women, including women with children. These ongoing substantive inequalities make all women vulnerable—some more than others—to gender-based violence.

A woman who is economically dependent on her partner, for example, may decide to remain in the relationship despite the abuse because she can't support her children if she leaves. With inadequate social assistance, virtually non-existent affordable housing, minimum wages that are not enough to live on, and insufficient affordable child care, what else can she do?

An Indigenous woman being abused by her partner who has been subjected to racism and colonialism throughout her life will not see the criminal or family legal systems as offering her substantive equality, which makes her more vulnerable to ongoing abuse. Because of the impact of historical and ongoing colonization and genocide, including the legacy of residential schools and the Sixties Scoop, her community may not be strong enough to support her and her children.

The lack of meaningful substantive equality traps rural women, older women, disabled women, newcomer women, and many others in relationships in which they are being subjected to abuse because they know they have limited access to justice should they leave.

On top of these challenges, violence against women in the family is often treated dismissively by those in positions of authority. When Sir Edward Coke, chief justice of the King's Bench, declared in a 1604 case

that “the house of every one is to him as his Castle and Fortress,” he was referring to the right of a homeowner to protect his property from an intruder. However, the notion that a man’s home is his castle has since been used to justify the idea that what happens behind closed doors—including intimate partner violence—is the business of nobody other than the people who live there; that we have a right to privacy and autonomy within our dwelling. This attitude permeates—even if subtly—societal and legal attitudes about and responses to this violence. Even now, a quarter of the way into the twenty-first century, I don’t think we can say that society and lawmakers understand the extent and seriousness of intimate partner violence in Canada. Nor do they truly realize it is not a private matter between a husband and wife but rather a serious issue of public policy.

Evolving language

A lot of different words and terms have been used over the past half century to talk about violence that is committed against women in the family. The language has been changing as society’s understandings of violence, the nature of intimate relationships, sexual orientation, and gender identity evolve. I don’t think we have yet come up with a term that accurately describes the many different kinds of abuse to which, mostly, men subject, mostly, women.

Early language tended to assume that the relationship was a marital one and the violence was physical, so we talked about “wife assault.” The broader term “woman abuse” moved us away from making assumptions about the relationship between the abuser and victim, and also broadened the discussion to include forms of abuse beyond assault.

“Domestic violence” became a popular term that is still used by many; however, it is vague to the point of being meaningless and can cover anything from abuse of one partner by another, to abuse of children and elders in the family. More recently, the language of “family violence” has begun to appear in family laws, but it’s still a pretty general term that encompasses more than violence directed at a woman by her partner. “Intimate partner violence” (sometimes abbreviated as IPV) deals with that problem, but it doesn’t reflect the gendered reality of most violence within

the family. And the use of “violence” in all three of these terms prioritizes physical over non-physical forms of abuse.

“Gender-based violence” (GBV) works well as a broad term to describe any violence that happens to someone because of their gender. But it’s not specific to the unique issues associated with gender-based abuse by an intimate partner, and the presence of the word “violence” again limits our ability to include all forms of abuse in our understanding.

While language needs to reflect our broadening understanding of gender identity to include people beyond the gender binary, and the realities that men as well as women can be victims of abuse by their partners and that abuse can happen in same-sex relationships, it seems important to me to not degender the language to the extent that the reality of this abuse becomes obscured. The truth is that those most often subjected to the most serious forms of abuse by their partners—patterns of behaviours that constitute coercive control, injuries that require medical attention, and death—are people who identify as women, and most often the person causing that harm is a man. The Nova Scotia Mass Casualty Commission grappled with the issue of language and arrived at this practice, as set out in its final report:

Violence is a gendered phenomenon, in that it is mainly perpetrated by men and it has a disproportionate impact on women.... Throughout this Report, we use the term “women” as a simple moniker to denote the much more nuanced and complex diversity of women, girls and Two-Spirit, lesbian, gay, bisexual, transgender, queer, intersex and additional sexually and gender diverse (2SLGBTQI+) people in Canada.¹²

I have struggled to integrate inclusive gender-identity language into my written and spoken words. My 1990s copy-editor brain took a long time to accept using plural pronouns when referring to a single person, as in “They were abusive to their partner.” I like to think I have mostly moved past this challenge, subject to only occasional slips of the tongue, but I still find it difficult to degender, for the important sake of inclusivity, language that describes intimate partner violence.

When I speak as well as in my written materials, I include a disclaimer/explanation about my use of language of the sort that appears in

the preface to this book, but that feels like both not enough and too much. Not enough, because it's just a sentence or two that doesn't explore all the challenges of forcing people into one of two genders through our language; too much, because somewhere in there we can and do lose sight of who the primary victims of intimate partner violence are and who most often are the people causing the harm. Clearly, I am a work in progress on this issue, as on so many others.

There are other aspects of language that matter too. Often unintentionally, the way we talk about intimate partner violence conceals rather than reveals what is happening and obscures rather than clarifies who is responsible.¹³ For example, passive language—"Suzanne was hit by Brent"—tells a different story than active language—"Brent hit Suzanne." We can conceal reality even further if we say, "An assault took place" or "There was a domestic dispute."

It's important, but not always easy, to avoid using language that mutualizes or minimizes the violence. Abuse by one partner of the other is not an "abusive relationship." The relationship is not abusive; one partner is abusive of the other. We need to say, "She was in a relationship in which she was subjected to abuse," not "She was in an abusive relationship."

Likewise, sexual assault is not "having sex." Sexual abuse of a child is not "sex with a minor." When we describe strangling as "squeezing" or sexual violence as "groping" or "fondling," when we call relationships in which one partner abuses the other "high conflict," we are diminishing the seriousness of what is happening. We are, in effect, making the violence disappear.¹⁴

Calling the abuser "her abuser" or the rape "her rape" makes the survivor part of or complicit with what has been done to her.

"Alleged" and "claimed" are two words we see used a lot, especially in legal settings, when referring to what a woman has said has happened to her. Both create the impression that what she is saying may not be true. It's possible to completely avoid both these words without violating the important principle that people are presumed innocent until proven guilty. For example, rather than saying "She claimed that her husband ..." we can say "She reported that ..." or "According to the woman ..." Instead of reporting that "the alleged perpetrator has been charged with ..." we can say "[her partner or her son or a man] has been charged with ..."

When we use language that mutualizes what has happened, it becomes easy to blame the subject of the abuse; to blame the victim for the situation in which she finds herself. I think we need to stop talking about intimate partner violence as something the survivor experiences and call it something to which she is subjected. Going on a trip, having a good meal, enjoying an enthralling book—these are experiences. Intimate partner violence is anything but.

Finding the right word to refer to the person who has been subjected to harm is a tough one. Systems—police and the criminal system, in particular—tend to use “victim,” because that helps make clear the responsibility of the accused. And indeed, many women who have been harmed by a partner feel like victims: of the abuser but, unfortunately, also often of the systems they turn to for support. But increasingly, some women reject the passivity of the word “victim” and prefer to see themselves as “survivors.”

There’s no right or wrong here. When I work with an individual woman, I use whatever word she prefers—and it might be neither of these. Because I see the incredible strength in women who have been subjected to abuse and violence, in my writing, speaking, and advocacy work, I almost always refer to them as survivors because, to me, that is what they are. No matter how victimized they may feel now, they are surviving what is being done to them, some days better than others. The one exception is when I am writing or speaking about women who have been killed: no matter how strong or courageous those women have been, by virtue of their death, they are now victims.

The more clear and precise we are in our language, the better we will understand the realities of intimate partner violence. It’s hard to learn new ways to talk about the gendered abuse that occurs in intimate relationships, and often, language that describes it accurately is more cumbersome. I slip up frequently and find myself using passive or mutualizing language or hear the word “alleged” slide out of my mouth. When I do this, I correct and then, briefly, explain myself. It’s the only way for all of us to learn.

What is intimate partner violence?

For a general definition of violence against women, we can turn to the 1993 United Nations Declaration on the Elimination of Violence Against

Women:

The term “violence against women” means any act of gender-based violence that results in, or is likely to result in, physical, sexual or psychological harm or suffering to women, including threats of such acts, coercion or arbitrary deprivation of liberty, whether occurring in public or private life.^{[15](#)}

In Canada, gender-based violence has been defined by the federal department of Women and Gender Equality (formerly Status of Women Canada) as:

violence based on gender norms and unequal power dynamics, perpetrated against someone based on their gender, gender expression, gender identity, or perceived gender. It takes many forms, including physical, economic, sexual, as well as emotional (psychological) abuse.^{[16](#)}

Both of these terms encompass many kinds of abuse—sexual abuse, sexual assault, sexual harassment, war crimes, and others—of which intimate partner violence is but one.

Canada’s *Divorce Act* provides us with a more specific definition of intimate partner violence or, as it is called there, family violence:

any conduct, whether or not the conduct constitutes a criminal offence, by a family member towards another family member, that is violent or threatening or that constitutes a pattern of coercive and controlling behaviour or that causes that other family member to fear for their own safety or that of another person—and in the case of a child, the direct or indirect exposure to such conduct.^{[17](#)}

The definition moves on to provide examples of some of the behaviours that are considered family violence in the context of family law. Not surprisingly, the list includes physical and sexual abuse; harassment, including stalking; and threats to kill or cause bodily harm. But it also includes such behaviours as threatening to harm or kill an animal and

psychological and financial abuse—behaviours that family courts have often been reluctant to see as forms of abuse.

This broad understanding of what intimate partner violence can look like is relatively new. Earlier approaches to what we then called domestic violence were focused on physical violence. Thanks in large measure to the hard work of survivors, front-line workers, and feminist academics and lawyers, we now include a much broader spectrum of behaviours in our definition of intimate partner violence.

An important recent addition to this spectrum of behaviours, we now understand the extent and seriousness of coercive control, a term first coined by American sociologist Evan Stark. His 2007 book *Coercive Control: How Men Entrap Women in Personal Life* (now in its second edition) dramatically changed the discourse on intimate partner violence.¹⁸ His definition of coercive control as “a pattern of domination that includes tactics to isolate, degrade, exploit and control” shifted the previous incident-based thinking—that is, that an abuser engages in individual acts of violence—to pattern-based thinking—that those individual incidents form a pattern that has a bigger and deeper impact on the victim than merely the sum of the individual acts.

Coercive control is generally understood to be a pattern of behaviours by one partner designed to manipulate, intimidate, and instill fear in the other. While physical violence may be part of the constellation of abusive behaviours, it often is not. Sometimes the abuser has used physical force once or twice in the early stages of the relationship, and, coupled with ongoing coercively controlling behaviours, those early incidents of physical violence continue to intimidate and create fear for the victim, even if they are never repeated.

An abuser who is skilled at coercive control may engage the systems his partner turns to for help—the police, the courts, child protection authorities—or his partner’s friends and family, in a way that leaves her feeling that she has nowhere to go. Legal bullying is a classic example of this. Gaslighting and, increasingly, technological abuse are also often part of the abuser’s repertoire.¹⁹ Over time, especially if there is little or no physical violence, the woman begins to doubt her own knowledge of what is

happening to her and thinks she is going crazy. She loses her autonomy, becoming ever more dependent on the abuser.

Kate was in a relationship with an abusive partner, with whom she had a child. She shared some of her story with me so I could use it in domestic violence training for Legal Aid Ontario staff and lawyers to help them understand how subtle and insidious intimate partner abuse can be. Her description of coercive control is a compelling one:

A woman realizes as the years go by that the man she loves has changed—he's just not the same person she married. The changes happened slowly, almost imperceptibly, until they just became her new normal. She tries to love him differently, she tries to make life better for him, yet things steadily worsen. The crazy making begins, she gets worn down, his abusive behaviours start to frighten her, and the crazy making continues. He never strikes her; he's smart enough not to leave any visible evidence. She works even harder to maintain some sense of normalcy for her young son, to shield his little soul from her pain, from his father's erratic behaviour and oppressive presence.

And now, the father is not working, he can't seem to hold a job down anymore. He blames her, it's all her fault. She doesn't tell anyone what life is like now for her and her son. How can she; she doesn't even know how to articulate it. She pretends everything is okay just so she can make it through another day.

Somehow, she's able to start thinking about leaving, to think about removing herself and her young child from the chaos. He starts to sense something's different with her, there's a new resolve. He becomes more erratic, more verbally and psychologically abusive. He sees that her only weak point is their son, so he starts threatening: you'll not leave here with him. The threats are very veiled, though: there's no clear threat she can report to the police. One minute, he's uttering thoughts that seem to be suicidal and she wishes she could help him; the very next moment he's belittling her, threatening her and she knows she must get away.^{[20](#)}

Kate left her abusive partner, taking her son with her. During family court proceedings, against her wishes, her partner was granted unsupervised access to her son. In Kate's words, this is what happened next:

I was ordered to present Luke for his first access visit the very next morning.... A friend brought Luke and me to the exchange point. My husband drove away with Luke and that is the last time I saw them. Luke was brutally murdered that day.... My husband ... wanted to take everything from me, and he did. He made good on his threat to not let me leave with Luke.²¹

While we didn't use the term coercive control in the 1990s when I was representing women fleeing abusive men, I had many clients who were living with this kind of abuse. They told me that they would take a punch, a hit, or a shove any day over psychological abuse. As one of them put it to me: "At least if he would hit me, I'd be able to prove that he is abusing me. No one believes me because I don't have any bruises." She wasn't wrong about this. One of the legal professionals I encountered while I was representing her said to me that he would find it easier to believe her story if "she had a black eye or a broken arm."

Physical injuries can be serious, of course, but a broken arm will heal, a black eye will fade, and both provide visible evidence of harm to the outside world. Overcoming the impact of psychological abuse is much more difficult, because it goes to the heart of a woman's feelings about herself.

While family law now understands intimate partner violence as a pattern of behaviours rather than as discrete, stand-alone incidents, the same cannot be said of criminal law. The *Criminal Code* does not have a distinct offence called domestic or family violence, spousal abuse, or intimate partner violence. Many charges can be laid in cases of intimate partner violence—assault, aggravated assault, sexual assault, forcible confinement, uttering threats, criminal harassment—but they are charges that can also be laid in other situations.

When someone is found guilty of an offence in the context of an intimate relationship with the victim, the court is required to consider that circumstance as an aggravating factor when determining the sentence.²² In

other words, if someone is found guilty of an assault on their partner, they should receive a more severe sentence than someone found guilty of a similar assault in another context. However, research done by University of Guelph sociologist Myrna Dawson, who heads the Canadian Femicide Observatory for Justice and Accountability, has identified what she calls the “intimacy discount”: men who kill women they know are treated more leniently at most stages of the criminal process, including at sentencing.²³

One of the challenges of the offences presently available in situations of intimate partner violence is that they are all stand-alone offences; none of them allows for evidence to demonstrate to the court the cumulative impact on a victim of being subjected to multiple forms of abuse in a pattern that escalates over time. A single charge of assault, for example, can look relatively minor if the court is not considering it within a context of ongoing psychological abuse, increasing social isolation, significant psychological abuse, and financial control and manipulation.

Discussions have been under way in recent years about criminalizing coercive control in this country, as has been done in a number of other jurisdictions, most notably, the United Kingdom.²⁴ At the time of this writing, Bill C-332, *An Act to Amend the Criminal Code (Controlling or Coercive Conduct)*²⁵ had been passed unanimously in the House of Commons and had moved on to the Senate to be further studied there. It seems likely it will get Senate approval, which would mean engaging in criminally coercive behaviour could result in criminal charges being laid. One of the recommendations of the CKW Inquest jury calls on the federal government to either create a stand-alone criminal offence of coercive control or include it as a type of assault.²⁶

Despite the surface appeal of criminalizing coercive control, I don’t agree with it for a number of reasons (which I explore in greater detail in [chapter four](#)). Briefly for now, my concerns are both general—I don’t think the criminal law is the best way to respond to intimate partner violence—and specific—coercive control is a pattern of behaviour, much of it very subtle, and so does not fit into the criminal law’s single-incident approach to crime. The potential for a criminal offence of coercive control to be used against those it is intended to protect is significant, as well.

It’s a cycle

There are distinct differences in what tactics individual abusers use. Some may be primarily physically abusive, others may maintain power over their partner by controlling her access to money and keeping all the financial information secret, another abuser may isolate his partner from her friends and family and stalk her whenever she is not with him, and so on. Almost all use a combination of tactics, which often changes over time.

Regardless of the abuser's choice of tactics, intimate partner violence almost always follows a similar cycle, in which the explosive incident—whether physical or psychological—is preceded first by a period of relative calm and then by a time in which tensions build. Following the explosion, there is a phase in which both partners deny, minimize, or justify what has happened, and then a period of reconciliation, sometimes called the honeymoon phase. All of these phases of the cycle, even the phases when the situation is calm, are part of the pattern of abuse: the components—including the explosive incidents—are not separate and individual events.

Here's a good description of the cyclical reality of intimate partner violence, from the intervenors' factum in an important Ontario family law case:

If an abuser only—but always—beats his partner on Mondays, the civil law has previously recognized this as a once-a-week problem: one day of brutal violence (remediable in tort) and six days of “peace” (with no need of a remedy). This absurdity highlights precisely the failure of the existing civil law. In reality, the six days between beatings are not days of peace, but of real harm which is inextricable from the acts of physical violence.²⁷

Many women describe the tension-building phase as a time when they walk on eggshells. While they know in their heads the explosion is coming no matter what they do, they try to placate the abuser, whose aggressiveness is increasing, and meet his ever-more-demanding expectations, hoping—perhaps—to forestall the outburst until the kids are not around, after the family vacation, they are in the privacy of their home, she has finished an important assignment at work, she feels more emotionally able to deal with it ...

Others do the opposite: finding the tension too great to manage and worrying about its impact on the children, they do something they hope will bring on the explosive incident. They know it is coming, and “provoking” it gives them a small measure of control and gets it over and done with. This does not make them responsible for what happens. Only the abuser can stop the abuse.

During the denial phase, both people pull back from what has just happened. The abuser may justify his actions by blaming the woman: “She’s at home all day while I’m out working. All I want is some peace and quiet and a decent meal when I get home.” Or he may minimize the seriousness of what he has done: “Well, at least I didn’t hit her. If my mum had behaved like that, my dad would have walloped her.”

The woman, too, may attempt to justify or minimize her partner’s actions by taking responsibility for what he has done—“I knew he was going to have a tough day at work and I should have made an extra effort to have things nice for him when he got home”—or by convincing herself that it could have been worse.

The honeymoon phase is when the abuser makes promises to the woman: never to hurt her again, to get help, to make it up to her. He may buy her gifts, take care of a task he has left undone for some time, or (temporarily) become so kind, affectionate, and devoted that she begins to question her memory and perception of reality. She may even blame herself for what happened and for getting upset about it. Most women don’t want to leave the relationship; they want their partner to change—back into the person they first fell in love with. They look for any opportunity to believe this change will happen.

Unless the relationship ends, there is an outside intervention (for example, the police are called and the abuser is charged), or the abuser decides he needs to take responsibility for his behaviour and seeks out help, the cycle will continue. And over time, it will speed up so there are more and more serious incidents and the calm times are shorter and shorter.

In the early days and weeks of my law practice, I had never heard of the cycle of abuse, but I certainly saw it in my clients’ actions. It was not uncommon for a woman to make an appointment to see me in the immediate aftermath of an assault or other explosive incident, only to cancel a day or two later when things had calmed down. Or I would have a

first appointment with a client at which she would describe an ongoing pattern of abuse, and then she would disappear, sometimes returning a few weeks or months later to pick up where we had left off. What I wasn't seeing, but eventually learned was happening, was the impact on her of the denial and honeymoon phases of the cycle. Once the emergency was over, she would move into denial, which was facilitated by the abuser's (temporary) loving and apologetic behaviour, filled with promises of the wonderful times to come.

It's experienced in each woman's unique context

Along with a broadening understanding of what constitutes intimate partner violence, over the past few decades we have begun to bring an intersectional analysis to this topic. American critical race feminist activist and legal scholar Kimberlé Crenshaw is well known for her work in the 1980s in which she concluded that an intersectional analysis requires us to examine gender-based violence to understand not just that individual survivors/victims are different from one another by virtue of different social locations (race, Indigeneity, disability, class, age, geographic location, and so on), but that each has multiple characteristics that combine to affect their experience of violence and of the systemic responses they experience. For example, a survivor might be not just a middle-class woman, but also a racialized woman who lives in a rural community, and it is her lived experiences in the totality of who she is that have an impact on the abuse she is subjected to, as well as on the responses of the systems she turns to. While her middle-class status provides her with some privileges, her partner may take advantage of her race to further isolate her, and her rural location may mean she does not have easy access to services.

The Mass Casualty Commission described intersectionality in this way:

By intersecting identities, we refer to the fact that women are not a homogenous group but rather are shaped by multiple factors such as race, ethnicity, religion, gender, class, disability, sexual orientation, immigration status and criminalization. While all women are subject to pervasive gender discrimination and concomitant violence, women with intersecting identities are disproportionately affected by various other forms of discrimination emanating from histories of

colonialism, systemic racism, ableism, ageism, homophobia, transphobia and the feminization of poverty....

In Canada, Indigenous women and girls, Black and racialized women, immigrant and refugee women, 2SLGBTQI+ people, people with disabilities, and women living in northern, rural, and remote communities are disproportionately subjected to violence....

Therefore, an intersectional analysis is essential to any attempt to address gender-based violence. Such an analysis contextualizes women's experiences by paying attention to the social and economic forces that produce structural inequalities, such as poverty and racism, that marginalize identifiable groups of women and make them more vulnerable to violence.²⁸

These words should serve as a guide for all of us with privilege, whose work to bring true intersectionality to our work and our lives is never-ending. They are also a reminder that the work towards understanding and using an intersectional analysis of gender-based violence, including intimate partner violence, has come about largely through the determined efforts of women of colour, Black women, Indigenous women, lesbians, trans women, women with disabilities, and women in rural and remote parts of the country.

The work is not close to being done, and the violence against women movement continues to struggle with internal racism, classism, heterosexism, transphobia, and ableism. Many of the women who have led violence against women work—and that includes me—have benefited from our white skin and other privileges and have not always been receptive to critiques from women who have not had those same privileges. We have much to learn from these women—not just about intersectionality but also about gender-based violence, systemic failures, what needs to change, and who needs to lead that change.

What does intimate partner violence look like in Canada?

It can be dangerous to rely on statistics about intimate partner violence to paint an accurate picture of the situation. First, statistics can reflect just the violence that people talk about, and only about 25 to 30 percent of victims of intimate partner violence report what has happened to them.²⁹ Second,

intimate partner violence is an evolving reality, which means that by the time you read this, any statistics I share here will be out of date. However, looking at some numbers can help us get a snapshot of what a serious crisis intimate partner violence is, even in Canada, a country where women have many protections that are not available to women in other parts of the world.

The first national estimate of the incidence of spousal abuse in Canada was produced by the Canadian Advisory Council on the Status of Women in 1980.³⁰ It found that “every year, 1 in 10 Canadian women who are married or in a relationship with a live-in lover are battered.”

Created by the Standing Committee on Health and Welfare, Social Affairs, Seniors and the Status of Women in 1990, the short-lived Subcommittee on the Status of Women³¹ declared that the 1989 killings of fourteen women at École Polytechnique should serve as “the catalyst for Canadians to demand that violence against women be put on the public agenda,” and set its terms of reference to include an inquiry into the definitions, incidences, causes, and costs of violence against women as well as the responses by the criminal system, community organizations, and government. Interestingly, the family law system was not included.

The subcommittee’s first report a year later was titled *The War Against Women*. Its section on the rate of violence against women in Canada reinforces my earlier point about low reporting rates:

Rarely a day goes by in this country in which Canadian media do not carry reports of sexual and physical assaults, perpetrated by trusted persons and strangers against girls and women. The frequency with which incidents of this nature are reported in the media would lead most Canadians to conclude that violence against women is, indeed, a serious problem in Canada. In fact, the gravity of the situation is far greater than the number of cases in news reports suggests. Research has shown that most women who are victims of violence do not report their victimization to the police.³²

Approximately every six days a woman is killed by her partner or former partner,³³ which is eight times the rate at which men are killed by a former partner.³⁴ The rate of femicide—the killing of women because they

are women—is much higher: according to the Canadian Femicide Observatory for Justice and Accountability, there is one femicide every forty-eight hours in Canada, with 850 women and girls killed between 2018 and 2022.^{[35](#)}

Thanks to the work of Ontario’s Domestic Violence Death Review Committee, we know quite a bit about domestic violence homicides in the province. Data presented to a domestic violence homicide inquest in 2023 by Dr. Peter Jaffe of the Centre for Research and Education on Violence Against Women and Children—who appeared as an expert witness—show that when someone, usually a woman, is killed by her partner or former partner, a lot of other people know that the perpetrator is abusing her. Family members know 73 percent of the time; friends, 65 percent of the time. Police are aware in 57 percent of cases, a lawyer knows 42 percent of the time, and in 33 percent of cases, co-workers know.

In 71 percent of domestic violence homicides, there has been a history of abuse; 70 percent of the time seven or more risk factors were present; and 67 percent of the homicides take place when the two people are separating.

Despite low reporting rates, intimate partner violence is the most commonly reported violent crime against women: 42 percent of reported violent crimes, compared to 12 percent for men.^{[36](#)}

In 2018, 44 percent of women in this country reported having been subjected to psychological, physical, or sexual violence by their intimate partner.^{[37](#)} And women are more likely than men to be subjected to intimate partner violence: according to a 2021 Statistics Canada report, 67 percent of family violence victims are women and girls.^{[38](#)}

Some demographics of women are more vulnerable to being abused by their partners than others.^{[39](#)}

Approximately 60 percent of Indigenous women have been subjected to intimate partner violence at some point in their lives, compared to 44 percent of women generally. Indigenous women are twelve times more likely to be murdered or go missing than are other women.^{[40](#)} According to a 2022 Statistics Canada report, 81 percent of Indigenous women who have been under any form of child welfare service have been physically and/or sexually assaulted.^{[41](#)}

Police-reported intimate partner violence is 75 percent higher in rural communities than it is in urban areas.⁴²

Disabled women are three times more likely to be subjected to abuse by their partner than are women without disabilities.⁴³

Disturbingly, 70 percent of people who are subjected to spousal violence have not reported the abuse to the authorities.⁴⁴

A shocking two-thirds of us know at least one woman who has been subjected to physical, emotional, or sexual abuse, whether or not we are aware of it.⁴⁵

In 2009, the most recent year for which this statistic is available, the aftermath of intimate partner violence cost Canadians \$7.4 billion.⁴⁶ This figure, no doubt higher now, covers both tangible and intangible costs: health care, funerals, criminal prosecutions and incarceration, loss of income, and pain and suffering.

The pandemic has had a profound impact on the rate of intimate partner violence, which has escalated significantly in Canada and around the world. Some of this escalation has been due to women's increased economic vulnerability: ten times more women than men left the workforce in the early months of the pandemic,⁴⁷ making them more dependent on their partner, including abusive partners. Economic experts anticipate it may take decades for women to regain the financial ground lost in 2020/21.

Public health protocols aimed at slowing the spread of COVID-19—in particular, stay-at-home orders—also played a significant role in the increased rates of intimate partner violence.⁴⁸ It's not hard to see why. Before the pandemic, families were not together twenty-four hours a day, seven days a week. With protocols in place that required people to stay at home, women and children had nowhere to go to get away from the abuse. Neither partner was leaving the house to go to work; children were being home-schooled; libraries, community centres, and other gathering places were closed; and people were not visiting with extended family members. It was a lonely time for many of us, but for women whose partners were abusive and for their children, it was also a very dangerous time.

In 2020, when the impact of the pandemic was at its most intense, 169 women and girls were killed by violence in Canada, compared to 118 the previous year. In 2021, that number increased to 173, and in 2022 to 184.⁴⁹

Epidemics, pandemics, and public health concerns can extend well beyond physical diseases and infections. In his 2016 report, *A Focus on Family Violence in Canada*, Canada's chief public health officer Dr. Gregory Taylor noted: "Women are more likely than men to be killed by an intimate partner and more likely to experience sexual abuse [and] more severe and chronic forms of intimate partner violence, particularly forms that include threats and force to gain control."⁵⁰

More recently, Canada's minister of justice and attorney general, Arif Virani, when responding to the CKW Inquest recommendations directed to the federal government, referred to gender-based violence as an epidemic.

When no one sees the abuse

Social media images of the marriage of Dr. Elana Fric and her husband looked picture perfect, and many of their friends described them as blissfully happy. However, two days after Elana served him with divorce papers in late November 2016, he strangled her to death in their home while their three children slept nearby.

It wasn't long before some of Elana's friends and co-workers said she had told them about her husband's abuse of her in the months leading up to her murder. It was significant: verbal, emotional, and physical abuse, including repeated sexual assaults and at least one incident in which he choked her until she was unconscious. So why did the family's social media portray "a union that appeared idyllic, relentlessly happy, even enviable," as Anne Kingston writes in her 2019 *Maclean's* magazine article?⁵¹

As Kingston discovers, the images were "a curated fiction," with the husband in control of Elana's social media accounts. The media fantasy of a love story gone wrong continued in the days after the murder, with Elana almost disappearing from the narrative, so determined were many reporters to share the perpetrator's professional accomplishments. Perhaps we were all supposed to forget that Elana was, herself, an accomplished physician and that, regardless of the admiration and fondness her husband's patients had for him, he had killed her.

Kingston looks at the class bias that infects our responses to intimate partner violence in some families, noting: "There's reluctance to accept that accomplished, financially independent women like [Elana] Fric can be caught in an abusive, controlling relationship." Similarly, there is a

hesitance to believe that a professional man could possibly harm his partner. As one of Elana's friends said: "She didn't think he would kill her because he wouldn't risk his career."⁵²

In a first-hand account of surviving abuse delivered as a 2012 TEDx Talk, Leslie Morgan Steiner put it this way: "I don't look like a typical domestic violence survivor. I have a BA in English from Harvard College and an MBA in marketing from Wharton Business School. I spent most of my career working for Fortune 500 companies.... Domestic violence happens to everyone. All races, all religions, all income and education levels."⁵³

As we'll explore in the next chapter, intimate partner violence can be invisible or dismissed for many reasons: bias or ignorance on the part of people who should notice it, commonly held myths about who it happens to and what a "real" victim would do, how the issue is portrayed in the media and in popular culture, lies perpetrated by some of those responsible for causing the harm, and because of failings within the violence against women movement itself. Taken together, these reasons create serious roadblocks to improving responses to intimate partner violence and working to eradicate it.

Chapter Three

Barriers to Ending Intimate Partner Violence

There's no quick fix

Early on in my work in the violence against women movement, I was at a gathering of women who had been doing this work for much longer than I had. One of them, no doubt after we had all had a glass or two of wine, commented that when she began her first job in a women's shelter, she thought it would be a short-term gig. After all, she recounted, once people knew about intimate partner violence, surely they would do everything necessary to bring it to an end. The laughter at this tale, told some twenty years after her hopeful start in violence against women work, had a somewhat brittle edge to it, as her colleagues nodded along with her story. Some of the women present are still doing this work, as am I, after another thirty years has gone by. I wonder how many glasses of wine it would take for them to summon up even a brittle laugh about their naïveté when they began their work to keep women and children safe.

There are, as we'll explore in this chapter, a lot of reasons for the failure to end intimate partner violence and to develop and implement effective responses to it. We'll look at the biases and stereotypes that all of us hold, whether or not we admit to them, and how they affect our understandings of intimate partner violence, those victimized by it, and those who engage in the abuse; myths that make it hard for women to be believed, like the notion that the abuse ends when the relationship does and that, if it is bad, the woman will leave and never return; the role of the news media and popular

culture; and the allure of the dishonest narrative promoted by so-called men's rights groups, which are sometimes a cover for groups of abusive men. I'll comment on the violence against women movement too, because we have not always gotten it right in our work to support survivors and change systems.

The arena in which I have chosen to do my work—the law, particularly family and criminal law—is such a huge barrier to ending intimate partner violence that it gets its own chapter right after this one. And lest you despair over the next pages, as you hear about some of what's wrong, let me encourage you to stick around. After we finish our look at the barriers in this chapter and the next, in [chapter five](#) we'll explore what we all can do to fix the problem of intimate partner violence.

Biases and stereotypes

Intimate partner violence happens across all demographics. No one is immune from it by virtue of their social location. People—in particular, women—of all cultures, religions, and races can be and are abused by their partners. Intimate partner violence extends across all ages. Whether born in Canada or elsewhere, whether married, single, or living in a common-law relationship, regardless of sexual orientation or gender identity, many women are victimized by violence in their intimate relationships. And men—regardless of what job they have, how rich or poor they are, whether they vote Green or Conservative or prefer heavy metal or folk music—can and do abuse their partners.

Often, both survivors and abusers have come from families where there was violence. They may have grown up being exposed to abuse by one of their parents against the other or they may have been abused themselves by a parent, sibling, or other family member. One or both of their parents may have used excessive physical discipline. When children are involved in violence from a young age, it becomes normalized and they don't learn other ways of dealing with conflict or disagreement.

While life events such as unemployment or financial difficulties and substance use do not make someone an abuser, they can act as triggers for someone who is already engaging in abusive behaviour. For example, the loss of confidence and self-esteem as well as financial stress that can arise

when someone loses a job can lead to an increase in frequency or severity of acts of abuse. Similarly, when an abuser engages in excessive substance use, is recovering from use, or is needing to use, their violence may escalate.

These life events also become excuses used by both the abuser and the survivor, so that, rather than acknowledging there is a pattern of abuse, they dismiss it as being a result of a specific incident. “He was just upset about losing his job.” “This only happens when he’s had too much to drink.”

The short of it is this: no one asks to be abused and no one likes to be abused. A disagreement—even a serious one—between two partners does not provide justification for one to subject the other to abuse. Relationships in which one partner abuses the other are not “high conflict,” as we continue to hear too often in family court. A man’s home is no more his castle than it is the castle of his partner, and closing the front door doesn’t mean he can do whatever he wants behind it. And despite what some adherents to various of the major world religions claim, none of those religions tells men to use force against their partner.

Unfortunately, the biases all of us hold and the stereotypes that flow from them interfere with our ability to fully understand these realities.

When I first started doing this work, my perspective was shaped by my largely privileged and sheltered upbringing. Not surprisingly, I brought many—now highly embarrassing—assumptions into my work in the early days. I assumed that women would leave as soon as their partner abused them for the first time, never to return. I didn’t think professional women would ever be victims of abuse or that professional men would abuse their partners. I thought some women were at least partly to blame for the abuse: women who engaged in criminal activity, women who were investigated by child protection authorities, women who married men in prison. I knew almost nothing about forms of abuse other than physical violence.

Fortunately for my clients, I kept these opinions to myself. I knew enough to know that I didn’t know enough, so I sought out information and, always, listened to what my clients told me. I didn’t know the term at the time, but I was practising active listening.

A patient women’s counsellor explained to me why women often come into a shelter multiple times, returning to the abuser in between stays. For some, these are small steps leading them to the place where they are ready

and able to leave for good. For others, the time in the shelter is a respite from ongoing abuse that they know they will never leave for any of a variety of reasons, which I discuss later in this chapter.

A nurse, after talking and talking around the elephant in the room through several appointments with me, finally broke down in tears and told me about the shame she carried because of her husband's abuse of her. I began to understand that intimate partner violence can happen to anyone and why so many women don't want to talk about it.

I learned how some women turn to substances to manage the pain of the abuse, and how others engage in criminal activity to keep food on the table or make sure their kids are well dressed or because the abuser threatens to harm them if they don't.

When I listened to a woman with a string of academic credentials describe the insidious psychological abuse—what we would now call coercive control—her professor husband had visited on her over many decades, I began to see into the world of non-physical abuse and to understand the subtle—and effective—tactics sophisticated men often use. This woman drove a BMW (with wipers on the headlights, no less) to her appointments with me and always appeared wrapped in a full-length mink coat, but she didn't have two dimes to rub together because her access to money flowed through her husband.

I didn't understand why a woman would marry a man in prison for multiple sexual offences against women and children until a client described a lifetime of abuse at the hands of men, beginning with her father and including her uncles, brothers, and a previous husband, leaving her someone who believed she had absolutely no worth or right to expect anything other than abuse.

A vivacious client with a good job and a wide social circle whose partner used their adolescent child as a weapon in his abuse of her taught me how vulnerable even a competent and well-supported woman can be when she fears losing her child, as she ultimately did—not because of a court order, but because the father had brainwashed the child so completely that she refused to spend time with her mother.

It took years, but I came to understand that, despite often thinking I knew what I would do in the many different kinds of situations my clients faced, I actually had no idea at all. Along with this realization came the

ability to drop my (I hope hidden) judgments of decisions they were making and accept that, for the most part, most of my clients were making the best decisions they could in that moment. It's easy to look in from the outside, but it's a different matter to look out from the inside, which is what I was learning—and am still learning—to do.

The truth is that women, regardless of their religious or cultural background, are hurt and killed by men who claim to love them when their behaviour threatens the power of the abuser. That threat might come in the form of dressing differently than he wants her to, rejecting his religion or spiritual beliefs, challenging his political opinions, taking a job when he doesn't want her to, refusing to engage in sexual activity with him, leaving him, or not making what he wants for dinner.

Biases, myths, and stereotypes contribute to inappropriate responses to incidents of intimate partner violence at both the individual and system levels. For example, women may be judged negatively for staying with or returning to an abuser, because of a lack of understanding of the many good reasons for doing so. One of those reasons, also not well understood, is that violence continues—often escalating in seriousness—after the relationship ends. Mandatory charging directives serve as an excellent example of well-intended public policy that has led to negative consequences for survivors. Both criminal and family law present serious challenges to survivors who turn to them for support and safety. At best, these structural components, when taken together, fail to provide what survivors and victims need and, at worst, make their situation more difficult and dangerous.

Many of us doing this work see all manner of gender-based violence committed by, primarily, men; men who have been born and raised in Canada and who would claim to support “Canadian” values, whatever those are. We also see that violence not taken seriously by the systems that should be responding to it: police officers who don't lay charges or lay them inappropriately, prosecutors who do not pursue aggressive prosecutions, judges in both family and criminal courts who find ways to excuse or minimize the seriousness of the abuser's behaviour, journalists who call intimate partner violence that ends in murder “a conflict between two adults,” and a general public that looks the other way as often as it can.

Unacknowledged bias, when we bring it into our work, creates a significant challenge in how we understand and respond to intimate partner

violence. We all have biases—many of them based on our lived experiences—about intimate partner violence, which means that our understandings about it are often incorrect.

Here's just one example. In June 2009, three sisters—Zainab, Sahar, and Geeti Shafia—and an older woman—Rona Muhammad Omar—whom they believed to be their aunt but who was actually the first wife of their father in a polygamous marriage, drowned in a car in the Rideau Lock system just north of Kingston, Ontario. Originally from Afghanistan, the family had immigrated to Canada in 2007 and lived in Montreal. Eventually, the sisters' parents and older brother were charged and found guilty of four counts of first-degree murder.

The issue of honour ran through the media coverage of the Kingston lock murders, as they were sometimes called, and played a role in the criminal trial of the perpetrators. Justice Maranger spoke of honour when he addressed the three accuseds after they were found guilty: “The apparent reasons behind these cold-blooded, shameful murders was that the four completely innocent victims offended your twisted notion of honour.”¹

Taking this theme even farther, in his statement after the jury delivered its verdict—a statement that was criticized by many Afghan Canadians—the prosecuting Crown attorney said: “The verdict sends a very clear message about our Canadian values and the core principles of a free and democratic society that all Canadians enjoy, and even visitors to Canada enjoy.”

The implication was clear: this was a culturally based crime, one that Canadian values would never condone. Wrong. This case was one of family violence, of femicide, no matter the religion or culture of the victims and the perpetrators. When we give the label of “honour killing” to the murders of girls and women from one particular cultural group, we do at least two things: we blame an entire culture for the acts of an individual and we devalue the lives of those killed.

As the Canadian Council of Muslim Women has written:

No murder of a woman should be categorized by the rationale provided by the murderer, or by society itself.... To label these murders as “honour killings” is both divisive and dangerous. It

makes these murders exotic, foreign, and alien to Western culture as if the West is free from all forms of patriarchy.²

Here's the thing about bias: bad enough as it is for a survivor of intimate partner violence to encounter bias in an individual she turns to for help, that's nothing compared to the impact when the response of an entire system is based on biased beliefs and understandings, which is all too often the case. Let's look at a few examples.

Child protection

Current policy in Canadian jurisdictions requires child protection intervention when children have been or may be exposed to "adult conflict." Unfortunately, this can mean the mother, if she does not leave and stay away from an abusive partner, is held to be responsible for "allowing" that exposure. There has been little understanding about why a woman might stay with or return to an abusive partner, and even less focus on holding the abuser accountable for his behaviour. To put it bluntly, it's easier for child protection workers to zero in on mothers, who are more likely to be compliant with the expectations set for them, than abusers, who are more likely to react with aggression and denial, making them much more difficult to engage in any process.

Over the past thirty years, there have been some significant improvements to child protection protocols, training about intimate partner violence for workers, and increased collaboration between the sectors. But, unfortunately, many of the old attitudes linger, and women are still too often seen as failing to protect their children when they are unable to find ways to safely leave an abusive partner, or as making up allegations to get back at their former partner.

Further to this, a white, middle-class bias remains in place for some workers in the child protection field. This bias can manifest in a number of ways. There may be a lack of awareness and humility with respect to culturally different child-rearing traditions, which can mean that Indigenous and Black women, women of colour, and women from non-mainstream cultures face judgment for how they parent. There may be a lack of understanding about cultures where family is understood to include many more people than two adults in an intimate relationship and their children.

When a child protection authority becomes involved with them, families living in poverty may face class bias about such aspects of their lives as structured meals, supervision of homework, tidiness, and general household organization. An almost empty refrigerator, dirty dishes in the sink, and laundry heaped on the couch are not evidence of anything particularly sinister, just as the absence of them doesn't mean there are no problems. The more subtle forms of intimate partner violence that may predominate in a middle-class family can fly under the radar for a child protection worker, compared with the often more upfront tactics they may see in a family living with poverty, even though both can affect the children who are exposed to the abuse.

Coping strategies may also inform the worker's attitude. If those strategies are familiar to the worker (e.g., a glass—or more—of wine), they will be viewed with less judgment than if they are not (smoking dope or using other substances).

Police systems

Police response is still not what it should be. As with other systems, there is bias on the part of individual police officers and bias in the culture of policing itself. When officers hold a biased view of how a “real” victim behaves, they will not always recognize that an angry, mouthy, aggressive woman telling them about her partner's abuse of her is every bit as much a victim as a meek, bewildered, weeping woman. A biased officer might, inappropriately, charge the aggressive woman without taking the time to determine who the primary aggressor is, or might assume she is exaggerating or fabricating her story. A woman with a criminal past will be viewed with greater suspicion than a woman who has no record. Racialized and Indigenous women often face skepticism when they call the police to report intimate partner abuse.

While some police forces in large urban areas have specialized domestic violence units, such specialized units are rare in small, rural, and remote communities. Even where there are specialized units, not all police officers bring an intersectional, trauma-informed approach to their responses to gender-based violence calls. Some police officers continue to misinterpret mandatory charging policies to the detriment of women; few police officers have the necessary nuanced understanding of family law to allow them to

intervene effectively in situations where an abuser is not following an order or there is a dispute between the abuser and the survivor with respect to property and other issues. There is little meaningful accountability for officers in terms of how they respond to intimate partner violence calls, meaning different survivors receive varying levels of support and assistance.

Importantly, according to studies cited by Vancouver's Battered Women's Support Services, 40 percent of police officers engage in family violence themselves and, when they do, this behaviour is often dealt with informally, regardless of the wishes of the officer's partner. This is, obviously, highly problematic for that woman in particular, but it also has an impact on police attitudes generally when officers respond to a family violence call.³

Ardath Whynacht explores this topic in her book *Insurgent Love* through the story of a woman who, after being subjected to intimate partner violence by her police-officer husband and not being taken seriously by the police, decided to become a police officer herself to try to change the policing culture. Once she was working as an officer, she noticed that her colleagues "at every level were covering up intimate partner and sexual violence perpetrated by their peers."⁴ When she made a complaint to the Police Services Board, she was shut down, told she was under investigation herself and that she was not allowed to communicate with the board any further. And when she was put on desk duty, she had little support from her union.

Abuse in activist communities

In my early years of political activism, long before I went to law school, I remember being part of a hushed-voice conversation outside a meeting where we were planning a demonstration in support of South African divestment at our university. We were whispering not because we were worried about our plans being overheard, but because someone had learned that one of the men in our group—a man in a leadership position—was abusive to his partner. I didn't know much about partner abuse at the time, and I was very resistant to believing what I was being told. Surely, I thought—and perhaps even said—someone who was a progressive activist would not be the kind of person to mistreat his partner.

Of course, I was wrong, not just about this individual, but also about others in progressive movements. Over the decades I've spent in groups working to end militarism, save the environment, support Indigenous rights, offer solidarity to independence struggles in different parts of the world, and yes, fight for women's equality, I have heard too many stories about intimate partner abuse by men involved in the work.

Activist groups have not been very good at owning up to their own misogyny, which has left women vulnerable to a wide range of discrimination, exclusion, and abuse. I've been part of genuine efforts to address this issue: women's caucus time at meetings; men's study groups; exercises in which we tracked and talked about who dominated the conversation in meetings (men, most of the time); men taking on child care responsibilities so women could participate in marches, demonstrations, and acts of civil disobedience; and so on. Some of us have talked to men about the need for them to hold one another accountable and to challenge sexist and misogynist behaviour, including abuse of women, by other men, but with only limited success.

Men in these groups can be better at talking the talk than they are at walking the walk. When women try to talk about what has been done to us, we are often silenced and disbelieved. The more powerful the man who has engaged in the abusive behaviour, the more poorly the women he has harmed are treated. The behaviour is excused; the woman is labelled as having exaggerated and is urged not to make an issue of it lest it interfere with whatever activities the group has under way.

Gendered abuse in activist communities has its own patterns—like all intimate partner violence—which are often invisible to everyone except the partners. I recently had an illuminating conversation with a friend, with whom I had been a political activist for many years. Her male partner at that time—a long time ago now—had been a key organizer. Many of us—both men and women—found him hard to work with because of his domineering personality. Few, if any, of us had any idea what his partner was dealing with in the privacy of their home.

As she said to me: “There would always come a point in a meeting when he would look at me. I didn't know when it would come, I didn't know what would bring it on, but I knew the look. The look meant that later, when we were alone, I would pay for whatever it was I had done or

not done that made him give me that look.” I felt such shame to learn that, even as I was working with survivors of intimate partner violence, I was completely unaware of what my friend was being subjected to.

Identifying bias

A number of years ago, I was providing training on intimate partner violence to lawyers. One of the topics we covered was the importance of screening new clients to determine whether there had been abuse in the relationship. I was surprised by how many lawyers eschewed any formal screening process, claiming, “I just trust my gut.”

I will be blunt about this: you cannot rely on your gut to tell you accurately about the presence of intimate partner violence. Popular culture may have created an image of a woman who has been abused—downcast eyes with a submissive or helpless air about her, ideally with a black eye or other visible injury—and of a man who has abused his partner—a bully with a loud voice, perhaps wearing a “wife beater” undershirt—but these are stereotypical images that bear little resemblance to many survivors and causers of harm.

I’ve worked with survivors whose anger rolls off them in waves. It takes up so much space that I feel as though we should be offering it a chair in the room. Sometimes, the anger is directed at their partner, but often it’s directed elsewhere: at the police for arresting or not arresting the partner, at the landlord for evicting them, at a child protection worker for suggesting they need some parenting help, at me for assuming they want to leave their partner. Some survivors are highly protective of their partner. This may be out of fear, but often, despite the abuse, they want to make the relationship work. Hard as it may be to understand from outside, they still love the abuser.

Not all my clients were “nice” women. I’ve represented women who were unpleasant to me and to others in my office; who showed up late for appointments or missed them entirely, with no apology; who whined; who were self-absorbed; who were, at best, lousy mothers; who had criminal records; who withheld critical information that inevitably surfaced in a way that was embarrassing to them and to me; who were uncooperative to such an extent that I sometimes wondered whether we could ever put a case together. I’ve worked with clients who were racist, homophobic, classist,

and who were, plain and simple, snobs. Once I had a client who left her infant and toddler alone in her apartment for hours during the night while she went to the lab to work on her PhD and insisted she was not doing anything wrong.

I learned a lesson over those years that I have had to remind myself of many times since: I can support a woman who has been subjected to abuse without liking her. That hard- or impossible-to-like client deserves my assistance just as much as one who is easy to like.

Likewise, while some of my clients had partners who behaved like a Hollywood abuser, that was not the norm. Only once was I concerned enough for my safety because of the behaviour of a client's ex-partner that I called the police. (While they were not prepared to offer me any protection, they said my client's ex was highly dangerous and I should take steps to keep myself safe.)

Only once did I witness an assault of a client by her partner, which, I have to admit, did wonders for our case, because it happened while the judge was present.

More often, when I encountered these men at court, they were charming, some of them even flirtatious, or presented themselves as dumbfounded that their partner had left them, crying crocodile tears over their desire to reunite their family and see their children.

Equally important, not all intimate partner violence survivors announce, "I am a victim of domestic violence," whether in a family or social setting, in an appointment with their lawyer or health care provider, or when speaking to their faith leader.

Without knowing it, we will all encounter both those who have been harmed by intimate partner violence and those who have caused that harm. We will make incorrect assumptions that someone is or is not a survivor or perpetrator because of how they present themselves and because of our own biases. Even those of us who spend our lives working with survivors or perpetrators of abuse will admit—if we're being honest—that we can't rely on our gut to get it right.

We are all vulnerable to stereotypes and biases of the sort I have described in myself. I've done a lot of work to remove those stereotypes from my brain, but from time to time I still have to say to myself: "Wait! You're thinking that because [insert stereotype]. Don't do it."

Some common myths debunked

Abuse doesn't end when the relationship does

Many people believe that abuse ends when the two people separate.⁵ In fact, the risk of both lethal and non-lethal violence begins to escalate when the abuser believes his partner is planning to leave, or when she tells him she is leaving, and it lasts for some time after that.

The act of leaving is, for many abusers, the ultimate betrayal. His partner has, perhaps, shared the secret of the abuse with others. She has defied him and threatened the power and control he has had. He may perceive her as trying to take “his” children away from him, as stealing his money or belongings. He needs to restore the balance of power to what it was before, when most of it rested with him.

Since he no longer has ready access to his partner in the privacy of the family home, he needs to come up with new tactics. Physical violence may now be more difficult, so he will turn to verbal abuse, threats, intimidation, or stalking. He may draw the children into his abuse, interrogating them about what goes on at their mother's house, blaming her for the family breakdown, speaking ill of her to them, or using them to send threatening messages to their mother. He may berate the mother in front of the children.

The woman's workplace, which may have been her haven during the relationship, now becomes a new location for her former partner's abuse: perhaps he shows up there to intimidate her, embarrass her in front of her boss or colleagues, or terrorize her until she quits her job, in the hope that she will be forced to return to him because she has no money. Maybe he arrives at her office appearing contrite with gifts of flowers or chocolates, making it harder for her to tell people about his abuse and harder for them to believe her when she does.

Lori Dupont was a nurse who worked at a Windsor, Ontario, hospital. She dated and then ended her relationship with a doctor at the same hospital. He wouldn't leave her alone, and she started the process to get a peace bond to keep him away from her. In 2005, shortly before that application was to be heard by a justice of the peace, the abuser killed her while she was at work, despite measures the hospital had taken to keep her safe. He then killed himself. The Dupont-Daniel Inquest into their deaths

led to legislative reforms that required employers to create safe workplaces for survivors of intimate partner violence and to provide paid leave to survivors.

In Ontario, workplaces are required to have policies and procedures specific to domestic violence in the workplace. Those policies give employers a duty to investigate when an employee discloses intimate partner violence to which they, or another employee, are being subjected, and then to put reasonable precautions in place to reduce risk to the employee. These precautions could include providing a photograph and information about the abuser to security staff, providing safe parking, relocating the employee's work station, or changing her contact information and developing an individualized domestic violence safety plan with her, as well as providing training to all staff to ensure they are familiar with common warning signs of domestic violence and know what their obligations are.⁶ Most other provinces and territories have similar requirements under their employment standards or occupational health and safety legislation.⁷

Unfortunately, legislation and policies and procedures, no matter how good, can never stop an abuser who is determined to kill his partner. In 2011, Paula Mare was killed by her common-law partner of twenty-three years when he showed up at her Cambridge, Ontario, workplace, ostensibly to bring her lunch. Instead, he attacked her with a knife as she was cleaning a hotel room, killing her, and then turned the knife on himself. He did not die and was convicted of second-degree murder in her death.⁸

Abbotsford, BC, Starbucks manager Tony McNaughton stepped in to protect one of his employees from an attack by her ex-husband in January 2000. Instead of stabbing his former wife, from whom he had been separated for two years, the man turned the knife on Tony, who died from his injuries.⁹

In 2004, Brampton high-school teacher Aysegul Candir was stalked, ambushed, and shot to death by her husband a few weeks after she left him. She was extremely frightened about what he might do and had taken elaborate steps to keep herself safe: while he was out of the country, she had moved out of their home and into a high-security condominium where she had used an alias. She had talked to her doctor and her colleagues about her fears and had asked the school not to put her new address on the staff list.

Her husband was found guilty of first-degree murder, despite his lawyer's attempts to convince the court that Aysegul's statements were "fabricated and exaggerated" and that her husband "loved his wife dearly."¹⁰

Post-separation abuse does not just happen at the woman's workplace, of course, and it does not always end in her death. The abuser may appear at random times at the children's school, day care, or extracurricular activities and become verbally abusive towards the woman. He knows her habits and routines, so it's not hard for him to interfere with her daily life. He could take out a membership at her gym and show up when he knows she will be there, suddenly begin attending her religious institution, interfere with her social life, begin grocery shopping when and where she does, intrude on her regular activities with her children, or appear at celebrations and other events when she is with her extended family.

One of my clients declared to me, after describing the relentless stalking and interference of the partner from whom she had recently separated, "He pays more attention to me now than when we were together. I should just move back in with him."

It's not hard to imagine both the annoyance and fear a woman would feel to find her ex sitting at the table next to her when she goes out for dinner with a friend; in the row behind her and the kids at the movie theatre, popcorn for all of them in hand; joining her Pilates class when, for years, he has made fun of her involvement; or showing up at her family or school reunion. Especially if the woman has not told other people about the abuse—as is common—this behaviour may not appear problematic to them, which makes it easy for the abuser to continue with his bullying and difficult for her to get support.

Technology-enabled abuse commonly increases post-separation. Even before separation, the abuser may keep a close eye on his partner's use of technology and build the base from which he can continue his monitoring of her after they separate. If the telephone and internet accounts are in his name or if they share an email address or passwords to their devices, this is very simple for him to do. He can track who she is communicating with and what she is saying. If she searches online for information about intimate partner violence, women's shelters, or family law lawyers, he can find out.

He may install spyware or set up GPS on her phone, in her car, in the house, or on the children's electronic devices, which he can use to monitor her movements and activities. He might insist on taking intimate photos of her and then threaten to post them online if she leaves him.

Post-separation, tech abuse can involve a wide range of tactics: online stalking, posting those intimate or embarrassing images, installing or using existing spyware, placing a tracking or video device in her car, and through unwanted communication. He can dox her, impersonate her, or steal her identity. Perhaps he texts her or calls her cell phone dozens or even hundreds of times a day. Or he may read her email/text correspondence and use what he learns to frighten or threaten her. If her Facebook account is in his name, he can change her settings and friend and unfriend people. He can shut down her internet access if they're using a shared account.

Social media is a gift to even a minimally tech-savvy abuser, who can use it to embarrass, frighten, or isolate his former partner. He can spy on her by communicating electronically with other people, including their children, or encourage his friends and family to harass her on social platforms.^{[11](#)}

I've worked with women whose smart home technology is registered to the abuser who, from wherever he is, turns the oven on and off, turns the television or sound system on in the middle of the night, turns off the lights, and raises or lowers the thermostat. A few years ago, a front-line worker told me about a client whose ex-partner used a drone to keep an eye on what she was doing in her home and then told their child, who lived with the mother, that he had a gun and would kill the mother if she did anything he didn't approve of. It's the high-tech version of gaslighting, which can leave the victim feeling as though she is losing her mind.

While tech-enabled abuse is serious, it's a mistake to blame the technology for the abuse. Abusers have always used whatever tools are at hand to stalk, harass, and intimidate their partners and former partners. Back in the pre-cell-phone era, one of my clients was tied to her apartment whenever her partner went out because he called her frequently and randomly and, if she didn't answer the phone, would punish her when he got home. She couldn't even go to the laundry room or take their child to the park, so afraid was she that she might miss a call. I had other clients whose partners checked the odometer on the car before they left the house

and when they returned, who took the home telephone with them, and who removed the distributor cap from the car—all to let the woman know who was in charge. While those tactics weren't so easily employed post-separation, they were very effective at intimidating the woman and controlling her actions.

This initial period of separation is when the woman may be involved in difficult family court proceedings to sort out arrangements for the children, child and spousal support, division of property, and safety issues. There may also be criminal and/or child protection proceedings under way. The continuing and escalating abuse—or the fear of it, which is often poorly understood by those around the woman—can leave her and her children exposed to serious harm and, sometimes, can keep her in the relationship or drive her back into it. This leads to another common myth: that if the abuse is real and serious, then the woman will leave and never return.

Why women stay and go back

It shouldn't be a surprise that women stay with and return to abusive partners, given the fact that the abuse often continues after separation. And yet, women are judged negatively when they do just this. The questions “Why didn't she just leave?” or “Why did she go back?” are often asked, with the implication that if she stays or returns either she is responsible for the abuse or it's just not that serious. Better questions to ask would be “Why is he getting away with abusing her?” or “Why doesn't he stop abusing her?”

The truth is that women *do* leave—again and again and again. Recently, I spoke with a woman who, in a marriage of more than a quarter century, left the abuser some twenty times. She always returned—because of her fear about what he might do to her or their children if she didn't, a fear he had cultivated in her throughout their marriage. The marriage eventually ended when he decided he wanted out of it, but even so, his abuse of her continued for some time. This woman, ten years after the end of her marriage, felt deep shame for having stayed as long as she had, even though her decision to return to him every time she left made perfect sense given his threats to her. Even sadder, her now-adult children placed a lot of the blame on her for the fact that she “let herself” be abused by their father for so many years and wondered what she had done to warrant the abuse.

Women stay and women return for good reasons. Some of them are personal, with fear near the top of the list. Women have many fears associated with leaving an abusive partner, all of them well founded. A woman may fear she will not be supported by her community, especially if it is a community that places a high value on the permanence of marriage. She may be afraid of the abuser's reaction, including the possibility of increased abuse. He may have threatened to take the children from her if she were to leave him. This is a very real threat, especially if he has ties to another country (for example, his extended family lives outside Canada, he owns property or has business interests elsewhere, or he can travel to a country that has not signed the Hague Convention¹² or where women have limited legal rights). She may be afraid that he won't know how to parent the children without her guidance or that he will try to turn them against her. Especially if her partner's abuse has included coercive control tactics, she may be fearful about her own ability to manage without him, thinking she is not smart enough to do so. She may be afraid no one will believe her, because he presents himself to others as a kind and considerate person. She may fear the possibility of living the rest of her life without a partner.

If she is financially dependent on her partner, putting up with the abuse and staying with him may feel preferable to leaving and living in poverty, especially if she has children. She may not want to deprive them of the standard of living they are used to if it includes such things as extensive extracurricular activities, summer camp, travel, and a generally comfortable lifestyle.

When a woman lives with abuse for a long time, she may deny how serious it is. If there are frequent periods of relative calm, if she has figured out how to predict when an explosive incident is coming and can get herself and the children out of the way, if she believes his promises to change: all of these are strong enticements to stay rather than to leave and face the unknown.

It's not uncommon for a survivor of intimate partner violence to blame herself and feel shame about the abuse. She doesn't want anyone to know about it, so she stays. She tries to make herself a better wife and mother, thinking that will lead to changed behaviour by her partner.

Who can she turn to if she is new to Canada or the community where she and her partner are living? Is she part of a community that will shun her

if she ends her marriage? Staying with the abuser means she doesn't have to worry about being isolated.

Think what it would mean for a woman who speaks, say, Farsi, or who is Deaf to move into a shelter where everyone around her is speaking English, or for a woman whose religious or cultural beliefs require her to follow certain traditions to have to live with people who don't understand or can't accommodate them. A woman with physical disabilities whose partner abuses her may require him for her daily care. Despite every best effort to make shelters welcoming to all, how likely is it that a woman who is in her late seventies or eighties would feel comfortable living in the noise and chaos of a space that is largely filled with younger women and their children?

Why would an Indigenous woman even think about calling the police, knowing it would automatically trigger a report to child protection authorities?

If a woman believes her legal status in Canada is dependent on her marriage, or if she has legal secrets that her partner knows about and could use against her, she may think it is better for her to stay with the abuser than to leave.

Perhaps the most common reason that women stay in or return to relationships in which they are being abused is that they continue to love their partners. They remember the early days, before the abuse began, as well as the periods of calm between incidents of abuse, and long for a return to those times. They want the abuse to stop; they don't necessarily want the relationship to end.

There are also external factors that drive women to remain with or return to an abusive partner. A general lack of societal understanding about the pervasiveness and nuances of intimate partner violence makes it hard for women to know who they can turn to for help. Social supports such as affordable, safe housing, adequate social assistance, and quality and affordable child care are insufficient and, in rural and remote parts of the country, may be virtually non-existent.

The perpetrator of the Nova Scotia mass casualty had abused his partner, Lisa, for almost two decades before his shooting rampage in April 2020.

His activities that night began with an assault on his partner, after which he forcibly confined her. We can never know what might have happened to her if she had not managed to escape her confinement to hide in the woods for several hours before seeking help.

He had subjected his partner to many kinds of abuse over the years they were together; abuse that rendered her entirely dependent on him and trapped her in the relationship.¹³ His abuse was a perfect storm of physical violence combined with coercive control, which included psychological, sexual, financial, and social abuse.

The physical abuse, often serious, began early in the relationship and continued throughout it. It served as the anchor for the other abuse. At his insistence, she gave up her job at a bank to work for him. When he was angry with her, he would withhold her pay, which served to increase her financial dependence on him. He owned the house they lived in. She had no assets of her own, so could not have secured her own accommodation had she left. She had no independent transportation, because he had made her sell her car.

According to others, he treated her like a servant, expecting her to respond to his every command. She did everything she could to pacify him. In her words: “For a long time, I was on eggshells and ... it’d be no rhyme nor reason for it ... he would just lose it and I would just try to calm him down.”¹⁴

In public, he was often physically possessive of her. The perpetrator owned many firearms and he readily used them to threaten her. He raped her. He isolated her, especially from her family, to whom she was very close. He told her that if she ever left him, he would harm her and her family members.

Like in many cases of intimate partner violence, other people knew what was going on. Some did nothing, but others tried to intervene. Some offered her a safe haven when she needed one. Others encouraged her to call the police, which she declined to do. One contacted the police herself, only to be rebuffed by them.¹⁵

Also like many victims of intimate partner violence, Lisa minimized the abuse to which she was being subjected. She left the abuser on several occasions, but she always returned, no doubt for the same reasons many women return: fear and dependency mixed with love and hope.

Despite the fact that she was the victim of serious and ongoing abuse and that the police had failed to respond when some of that abuse was reported to them, following the mass casualty event, she was criticized by some for having failed to stop the perpetrator's actions.

I got used to opening files and then setting them aside—sometimes for weeks, sometimes for months, occasionally for years—as women explored the possibility of leaving and slowly become confident enough to do so. I also learned that some women would never leave, but would continue to meet with me to keep alive their dream that they might and to hear from me that what they were dealing with was real and not their fault.

Rachel Louise Snyder writes about this dynamic in her book *No Visible Bruises*:

With domestic violence, often there is no end date for the victims.... We live in a culture in which we are told our children must have a father, that a relationship is the ultimate goal, that family is the bedrock of society, that it's better to stay and work out one's "issues" in private than to leave.^{[16](#)}

I often think it's a wonder that women ever leave. My work with survivors and the systems they turn to has taught me that, because of the failures of those systems, for some women, staying—for now or forever—is actually a better option. It's a horrifying reality that staying can keep a woman and her children safer than leaving.

I want to be clear: in no world I want to live in is this okay. It is the best there is only because we have, as a society, failed those who are subjected to abuse by their intimate partners. What makes this unacceptable reality even worse is that when women stay because there is nowhere safe to go, they are judged negatively for doing so by people who say that, if a woman stays, it means the abuse is not very serious.

Even for women who want to and eventually do leave, the process is a slow one, sometimes called the evolution of separation, involving a number of trial departures into the unknown, followed by returns to the known, even if it is unsafe. Those initial expeditions into the world allow the woman to find out what it is like to be away from the abuser, what services

and supports are available, how the children cope, and what the abuser does to try to get her to come back. Once she has enough information, she can make her decision, and while it may not be the one you think you would make in her situation, it is usually the best decision she can make at that particular time.^{[17](#)}

The roles of news media and popular culture

The news media, especially in this age of social media, play a significant role in how the public understands important issues, including the issue of gender-based and intimate partner violence. When they cover a story well, it increases public awareness and knowledge. When they cover it poorly, it can reinforce incorrect stereotypes and promote negative images and ideas.^{[18](#)}

Media coverage of intimate partner violence, while getting steadily better, still presents challenges. A focus by some media outlets on sensationalism means that the important details are lost in a flurry of dramatic headlines, quick quotes, and misleading or irrelevant photos, which may not correctly describe what has happened. It's not uncommon for news articles about intimate partner violence to gloss over the history of abuse in favour of irrelevant human interest aspects of the story. Hearing that the abuser helped the elderly woman next door by shovelling her driveway in the winter and mowing her lawn in the summer, organized really great neighbourhood barbecues on July 1, or played pick-up ball with the kids creates inappropriate sympathy for him while also making the abuse—and its victim—invisible.

Headlines often obscure the reality of intimate partner violence: “Woman fatally stabbed in Brampton had agreed to meet estranged husband in park, brother says”^{[19](#)} provides no information about the background to the killing and, if anything, places responsibility on the woman for her own death by telling readers she had agreed to meet her husband. A better headline in this case might have been: “Husband kills wife soon after separation.”^{[20](#)}

It's not surprising that musician Sting described his hit song “Every Breath You Take” as “a nasty little song, really rather evil. It's about

jealousy and surveillance and ownership.”²¹ How could it be anything else, with lyrics that could be a stalker’s anthem?

Popular culture—whether advertising, television shows, films, video games, or music—plays a large role in the normalization of stereotypical gender roles and societal desensitization towards gender-based violence. TickThatBox, an intersectional feminist blog, put it this way: “Misogyny is the accepted status quo rather than the problematic ideology feminism has long understood it to be.”²² We are inundated with programming that reinforces rape myths, blames victims, and blames the mothers of perpetrators of gender-based violence for failing to raise their sons to be good men.

Just watch a few episodes of *Law & Order: Special Victims Unit*, where despite the valiant efforts of the apparently tireless Captain Olivia Benson to get justice for survivors and victims of gender-based violence, there is still plenty of negative and untrue stereotyping of both victims and abusers. There are many examples of popular culture that, actively or passively, encourage gender-based violence. We all have our favourites.

But change is on its way. The TV mini-series *Unbelievable*,²³ the story of a young woman who has been charged with lying about being raped and the two (women) police officers who persist in an investigation that eventually leads them to a serial rapist, and an exoneration of the woman initially thought to have lied, is an encouraging example of how gender-based violence can be dealt with positively in popular culture. The show spares us any graphic rape re-enactments, while still showing the horror of sexual violence. Its examination of the treatment of sexual assault survivors who report to the police is realistic, and the challenges faced by the detectives who won’t let go of the case are well portrayed.

The Geena Davis Institute on Gender in Media’s work for gender balance and to foster inclusion and reduce negative stereotyping in the entertainment industry is also encouraging. “The stories that we choose to tell in entertainment media,” according to the institute’s website, “send a specific message about who matters most in our culture.”²⁴

The Bechdel Test, originally posited in jest by cartoonist Alison Bechdel, is widely used by those who want to assess a work of fiction on its inclusion of women.²⁵ The test sets three criteria: there must be at least two women, who must talk to one another, and they must talk about something

other than a man. Try it out the next time you are watching mainstream television or movies—you may be surprised how many fail to pass this simple test.

Women Talking, both the Miriam Toews novel and its film adaptation by Sarah Polley—a tale about women living in an isolated ultra-conservative religious community in South America—passes this test with flying colours. The title gives it away: the story is entirely about women talking to one another, and while their conversations are rooted in the rapes to which most of them have been subjected, they spend much of their time exploring their spirituality and how they can move themselves and their children on from what has been done to them. It's telling, though, that just the concept of women talking was seen as somehow subversive by some. As Sarah Polley put it when her film was nominated for an Academy Award: "For some reason, the very act of women talking sounds offensive to some people.... It's not called 'Women Shouting,' it's not called 'Women Scolding'—it's called 'Women Talking.'"²⁶ When she accepted the Oscar for best adapted screenplay she noted, somewhat drily: "I just want to thank The Academy for not being offended by the words 'women' and 'talking' put so close together."²⁷

Men's rights groups

The notion of men needing rights was already written about in the late 1800s by English barrister, journalist, and socialist Ernest Belfort Bax in his book *The Legal Subjection of Men*:²⁸

The highest development of modern capitalism, as exemplified in the English-speaking countries, has placed man to all intents and purposes, legally under the heel of woman. So far as the relations of the sexes are concerned, it would be the task of Socialism to emancipate man from this position, if sex-equality be the goal aimed at. The first step on the road towards such equality would necessarily consist in the abolition of the modern female privilege.

The misogyny that still drives much of the men's and fathers' rights movement can be seen clearly in Bax's words: even within the comfortable

world he and his contemporaries no doubt occupied, I imagine few women would have agreed with his assertion that men's equality was being ground into dust beneath the heels of women's privilege. While over the next several decades, individual men wrote about the hardships they felt they suffered compared to the easy life they imagined their mothers, sisters, wives, and daughters had, the men's and fathers' rights movements that we are most familiar with began to build in the 1960s, mostly in Canada, the United States, Australia, and some parts of Europe.

This development was fuelled by a number of factors. By the 1960s, women in these countries were fighting for and achieving more rights. Many had access to birth control and some to safe abortions. More women were in the paid labour force and maternity leave was increasingly available. Within the family, roles were slowly beginning to change so that responsibility for caring for children and running the household no longer fell entirely to women. Divorce rates were on the rise and divorce laws were becoming more liberal. People were becoming aware of what was then often called wife assault.

By the late 1970s, men's liberation groups had split into those that supported women's fight for equality and those that opposed it. These latter groups saw men, not women, as the oppressed gender and, throughout the 1980s and into the 1990s, defended patriarchy, including traditional masculinity and gender roles in the family and in society.

In the 1990s, fathers' rights groups, perhaps most notably Fathers Are Capable Too (FACT),²⁹ identified a particular focus: the so-called mistreatment of fathers by the family law system. By this time in Canada, it was relatively easy for someone to get a divorce, because neither party needed to establish wrongdoing by the other. In most parts of the country, in an attempt to improve women's financial situation and to recognize the important role played by stay-at-home wives, laws required the spouses to share the value of the family property equally, regardless of who had paid for it or whose name it was registered in. The introduction of child support guidelines in the mid-1990s became the centrepiece of activism for fathers' rights groups.

The guidelines were introduced by Prime Minister Jean Chrétien's Liberal government in an attempt to standardize and rationalize the amount of money a parent—most often the father—would pay towards the support

of their children. This legislation was badly needed and could hardly be called radical, but fathers' rights groups sprang up overnight specifically in response to it. They presented a united and angry front, claiming that their members were being victimized by the law and by their vengeful, money-grubbing former wives.

Because the guidelines were built on an assumption that children lived primarily with one parent (the mother), fathers' rights groups took the position that the *Divorce Act* should be amended to include a presumption of equal parenting time. This, they argued, would be fair to fathers, who simply wanted to spend time with their kids, time they claimed their wives were refusing to let them have. What they didn't emphasize was that such a presumption would also reduce the amount of child support they had to pay under the new regime. Some of these men were abusers: at least one leader was found guilty of assaulting his wife.

Senator Anne Cools, at one time a strong advocate for women fleeing abuse, led the Senate in pressuring the House of Commons to establish a Special Joint Committee on Child Custody and Access in exchange for the Senate backing the child support legislation. The joint committee, as part of its mandate, held hearings across the country, at which fathers' rights groups were vocal participants, often attempting to intimidate representatives of feminist organizations that also engaged in this process. Some of my colleagues who participated in these hearings reported being screamed at, having objects thrown at them, and being followed to their cars.

As Bonnie Diamond, at the time, the executive director of the National Association of Women and the Law, wrote in the *Canadian Woman Studies* journal:

Fathers' rights groups or individual fathers dominated the witness list with their personal stories of "parental alienation" and personal loss. It seemed that non-custodial fathers were given precedence at the hearings and their tales of "vindictive" ex-wives illegally denying their rights to see their children went unchallenged. Committee Chair Landon Pearson did not stop fathers' rights advocates from heckling women during their presentations. On the other hand, women's groups were repeatedly denied access to the

hearings and when they were invited to appear they were jeered, mocked, and their well-researched presentations were derided.³⁰

Ultimately, the government chose not to include a presumption of equal parenting in the *Divorce Act*, and the Senate approved the child support guidelines. However, fathers' rights organizations proliferated and continued their call for equal shared parenting. They also maintained their strategy of confronting feminist advocates who spoke out about the gendered reality of intimate partner violence and the need for better family laws to ensure the safety of women and children. During the late 1990s, I was a frequent target of their attentions, receiving threatening emails and letters and, on one occasion, having my photograph featured on the website of a fathers' rights group with the label "Feminazi bitch to watch out for."

I will never forget the time I agreed to be interviewed on a TV news show alongside a well-known fathers' rights activist. He was much more skilled than I, and managed to control the narrative of the interview. He created an image of himself as an innocent victim of his wife and the family court system, while also making me look strident and unreasonable. He may not have said anything threatening, but I felt frightened—a feeling that was shared by the woman host, who approached me after the interview to ask if I was okay. I have never since accepted an interview invitation if the invitation also included a fathers' rights activist.

The positions taken by these self-named fathers' rights activists were largely unsupported by fact; as journalist Richard Collier wrote in 2015, they relied primarily on "anecdotal evidence and assumptions" rather than "evidence-backed research."³¹ They couched their arguments in gender-neutral language, claiming their primary focus was the best interests of children, when in fact, these organizations have largely been concerned with reducing child support responsibilities for fathers while also finding ways for abusive men to maintain power and control over their former partners.

In the almost three decades since the fight over child support guidelines, these organizations have waged a concerted and organized campaign to convince politicians and Canadians that their members are hapless, loving fathers who are being discriminated against and victimized by vengeful women seeking to take all their money and deny them a relationship with

their children. Their focus is on family law, with claims that the Canadian system is biased against men and in favour of women, asserting that family violence allegations made by women are largely false and intended to help them win custody of the children.³² In more recent years, these groups have brought back to life American psychologist Richard Gardner's long-since discredited theory of parental alienation, with claims that women routinely attempt to turn children against their fathers.

Gardner first introduced the concept of parental alienation in 1985, calling it "parental alienation syndrome." PAS, according to Gardner, is when one parent—in his opinion, most often the mother—takes steps to alienate the children from their other parent. Often, he said, the strategy included making false claims of sexual, child, or domestic violence. While Gardner's syndrome was never accepted by any professional associations, or for entry in the *Diagnostic and Statistical Manual of Mental Disorders* (DSM), and was largely criticized and dismissed by medical and psychiatric associations, it was seized upon by fathers' rights groups, which have never really let go of it. After a period of time in the early 2000s when we didn't hear much about it, it has since re-emerged, often introduced in family court cases when the mother raises the issue of intimate partner violence.

Many fathers' rights activists, whether acting on their own or as part of an organization, combine traditional lobbying of politicians at all levels with high-profile PR stunts and personal narratives—such as scaling the Jacques Cartier Bridge dressed up as Batman and Robin to unfurl a banner—designed to garner public sympathy.³³ While none of their activities has led to the law reform changes they seek, they have been quite successful at creating an almost entirely false picture of innocent, hard-done-by men being victimized by a family law system that discriminates against them and in favour of women.

Of course, there are lots of non-abusive men who are excellent fathers, and family courts do not always understand the important role that a good father can play in his children's lives. They've been damaged by the fathers' rights movement as well.

What that movement has done—very successfully—is to hide their misogynist message behind a rhetoric of equality. This is a message that resonates with a certain segment of society, including some politicians and some of those involved in the family law system. The result: women

continue to be disbelieved and have to spend money they don't have to fight these false beliefs in their family law cases, often leaving court with orders that do not protect them or their children from ongoing abuse by their former partner.

Men's rights activists haven't tired of making threats against feminists. In the fall of 2023, I received an email from someone who called himself "Adam," which I doubt is his real name. He used a number of profanities to tell me what he thought of me and then said:

I am writing to absolutely wish [I suspect he meant to write *wish*] cancer upon you. You are a feminist, and therefore you deserve to have cancer of the nipples, clitoris cancer, vagina cancer and all those great things you deserve. I also am wishing upon you that your efforts infuriate a man of reason, causing him to commit heinous violence against you.

Good day to you too, Adam.

The violence against women movement

This examination of barriers to ending intimate partner violence would be neither honest nor complete if I did not talk about the violence against women movement itself.³⁴ While this movement, of which I have been proud to be a member, can take credit for much of the positive change that has come about over the past fifty years, we must also take responsibility for our shortcomings.

My comments are based on my own experiences working in and with violence against women organizations, mostly in Ontario, but in some other parts of Canada as well. Many will disagree with my criticisms and with my sharing them in a public space. However, I think self-reflection is a critical part of learning and transparency is an important part of accountability. If we are to move ahead without making the same mistakes over and over, we have to acknowledge where we have gotten it wrong and where we could do better.

Let me start by telling you a bit about the funding framework for many organizations that provide services to women and children. These services are almost always underfunded. This means valuable staff and volunteer time must be directed to fundraising, time that could otherwise be spent providing services or working for systemic change. No one likes to always have their hand out, but that's the reality for a lot of boards of directors and executive directors.

Much of the funding women's organizations do receive comes in the form of project grants, which do not provide sustainability or security for the organizations, their clients, or their employees. A project grant funds something new and innovative, and it is available only for a fixed period of time. Occasionally this period can be as long as five years, but it is more commonly one to two years. Sometimes the grant is renewed for a second or, very occasionally, a third time, but even this possibility offers little security or certainty. Often project money comes with no budget line for administrative expenses, meaning money has to be found or spirited away from other work to cover those necessary costs.

Once the specified project is over, no matter how successful it was, there is no more money for it. Think about that for a minute: expectations have been created in the community that a particular program or service is available, women use and benefit from it, staff are hired, space is created, evaluations show it is helpful, and then it all has to shut down.

While there are a lot of creative executive directors who find ways to roll such projects into their core-funded work, some organizations live on nothing but grant money for years. Such was the case for Luke's Place in Durham Region, where I have done much of my work over the past couple of decades: for many years, the organization operated with no core funding at all.

The cycle created by project funding repeats itself over and over: write a proposal (using staff time), get the grant, run the project, write reports (often two or more per year), end the project, write the final report, then start the cycle all over again. And again. And again. All of this sucks time away from doing the actual work.

Almost no funders support advocacy work. While this makes a certain kind of sense in our present political climate (Why would a government fund an organization to criticize it or advocate for changes to its laws and

policies?), it hampers organizations from assisting their clients at anything other than the individual level. It forces organizations to silo their work in a way that is not helpful to making the links between the individual experiences of each woman who seeks support and patterns and trends in law, social policy, programs, and services that require change.

There is little funding available that understands the intersections between sexual violence and intimate partner violence; rather, most of it treats these two aspects of gender-based violence as entirely separate. This flies in the face of what is now well understood: many women are subjected to sexual violence within their intimate relationships, and often women are victimized by different kinds of gender-based violence at different times of their lives. While some violence against women organizations have found ways to offer global services to survivors of gender-based violence, in large measure, this analysis restricts the ability of most organizations to provide women with trauma-informed, intersectional support for multiple forms of gender-based violence.

Violence against women organizations face structural as well as funding challenges. Organizations receiving public funding must have volunteer boards of directors, which is onerous in several ways. It's a lot of work to build a board that has the capacity to understand and fulfill its fiduciary duties, work that usually falls to the already overburdened and underfunded executive director. That same executive director also has to support the board chair, provide the board with the information it needs to do its due diligence, and make sure board members know what is and is not their responsibility. The board chair, a volunteer, has to manage the board; lead ongoing board recruitment; and keep board members engaged, interested, and feeling as though they are more than a rubber stamp to what the executive director wants, while also staying in close communication with the executive director.

I've been part of and have worked with some excellent boards of directors that provided a clear value-add to the organization, but I have also worked with some that were everything from lackadaisical to negligent in the performance of their duties. These boards created a huge time and energy drain for the executive director, while also placing the organization

in legal and financial jeopardy. To be a good board member takes time, and while most of those who join a board are well intentioned, often the reality is that they just don't have the time that is required. This, too, places additional burdens on the executive director.

Most organizational bylaws set limits on how long someone can be a board member. This is a good idea in theory: regular and staggered turnover in membership keeps the board fresh and brings in new perspectives, while also ensuring continuity and the opportunity for creating and maintaining an institutional memory. In reality, however, it is often a struggle to keep to those time limits because there is a lack of new people to come onto the board.

These challenges are magnified many times over in small communities, where the pool of potential board members is small and in big demand throughout the area's not-for-profit agencies. If on top of this, the organization is looking for diversity on its board, the challenge in finding people to tick those boxes can be overwhelming.

Not-for-profit organizations need and can benefit from some kind of oversight, but government needs to rethink the current model, so it does not just create more work for the organization's leadership.

Since the onset of the COVID-19 pandemic, violence against women organizations—especially those that provide direct services to survivors—have also struggled to keep staff. Those two years of working under very restrictive public health mandates while levels of violence escalated considerably took a toll on front-line workers. Some became used to working from home or with smaller numbers of women and have not been able to make the adjustment back to a pre-COVID style of work. Others left their jobs because they couldn't work while also home-schooling their children. Across the board, women left the workforce in droves, and many of them doing violence against women work have not returned. This places enormous strain on organizations that are not really equipped to engage in a constant cycle of recruiting, hiring, and onboarding new staff.

For these and other reasons, violence against women organizations face an uphill battle every day of their lives. Nonetheless, there is more we could

have done in the past and could be doing now to create an inclusive and welcoming movement.

Largely because of the funding challenges, we have allowed ourselves to become a sector rather than remaining a movement. When the first shelters in Canada opened, they did not have any government funding. They were staffed by volunteers—often survivors themselves—who fundraised money to pay the rent and relied on donations of food, furniture, clothing, and everything else they needed. They offered a safe space to stay for women and their children, but little else because they lacked the resources to do anything more.

In this sense, the funding of shelters and other services for survivors of gender-based violence has been nothing but good. It has allowed those organizations to operate without constant scrambling for money for the essentials, to pay staff, to offer comfortable housing to women and children at a vulnerable time in their lives, and to provide supports beyond a bed and a meal. These funded services have changed and saved the lives of tens of thousands of women and children.

However, this funding has not come without a price. The past forty years has seen a mainstreaming and depoliticizing of violence against women work because of the focus on funding for individual solutions for individual women. This has led to a loss of the social movement focus on structural change, because energy is being used to build and maintain effective services and to keep funders happy. I get it: we all find it difficult to prioritize work for somewhat abstract and distant social change when a woman is sitting in front of us needing practical help right now, and we don't want to do anything to jeopardize the funding that allows us to provide that support. But we have to find a way to become a movement once again or our work will lose its broader focus.

We have at times allowed the ongoing challenges with funding to create barriers to meaningful collaboration among organizations doing the work. Too often, we are competitive with one another, holding our work close. Why? Are we afraid that someone else will grab the spotlight? That we won't be adequately recognized for our work, individually or organizationally? That another organization will get funding to do work we think of as "ours"? Are we jealous of the successes of others?

We don't talk about this, so it's hard to know for sure, but I think it is all of these things. I also know this attitude is not good for the work. It doesn't allow new organizations or individuals within those organizations to have a full voice or become leaders in the work. We all lose as a result, because those are often organizations working with women from marginalized communities that would bring a new perspective to the work.

Largely a white, middle-class women's movement initially, we have struggled—not always successfully—with our internal racism and classism. Even now, women of colour, Black and Indigenous women, and women from other marginalized communities fight to have their voices and lived experiences included in the analysis of intimate partner violence and the understanding of the services and supports their communities need, as well as to be seen in leadership roles. Just one example of this is the historic, and ongoing, assumption within the movement that the ultimate goal of our work is for women to leave their partners who have been abusing them, when in many cultures, the goal is to offer opportunities to the abuser to heal and keep the family intact, while also addressing the abuse.

In a different context, our systemic change advocacy work does not always reflect the lived realities and experiences of women from marginalized communities, including disabled women, older women, and women living in rural and remote communities. Shelters, especially those in small and rural communities, work hard to offer accessible services to women with mobility limitations, who do not speak English or French, or whose religion or culture include special ceremonies or food, but realistically, they cannot always meet the individual needs of every woman who might come to their door. Older women often do not feel comfortable in the busy, noisy, and communal environment of a shelter.

In its early days, the movement struggled to accept the reality of abuse in lesbian relationships. One reason for this was that our analysis of violence within families was based on a belief that its root cause was misogyny and women's inequality. It was difficult to fit abuse by one woman of another into that framework. There was also a high level of denial within the lesbian community about abuse in lesbian relationships. As a result, access to services was limited; many lesbians were not comfortable going into shelters or seeking other community services, and if they did, they risked being turned away or met with ignorance or open

discrimination. Over time—and because of the hard work of courageous lesbians and queer women—the violence against women movement developed a new, broader understanding of intimate partner violence that accepted the reality of abuse in same-sex relationships as well as the fact that, in some heterosexual relationships, the woman could be the aggressor.³⁵

More recently, we have grappled with how to understand trans people in the context of providing services to survivors of gender-based violence. And while we have made considerable progress in moving towards trans inclusion and trans allyship, it has been a longer and more divisive process than it should have been.

My own work on this issue began thirty years ago, when the shelter where I was a board member was challenged by members of the trans community for not accepting trans women. At that time, I sided fully with the shelter. How could we, I thought, possibly allow people who were physically male to live in the same space as women who were fleeing abuse perpetrated against them by men? As we discussed how to move forward, I said things from my place of privilege and ignorance that now embarrass me, but I also listened and, as a result, I learned; mostly, that there was a lot I needed to learn. The shelter undertook some training, delivered by smart and courageous trans women who were open to being asked all manner of questions, and we came away from the experience better informed and ready to do the work needed so our shelter could be a haven for all those who identified as women and who were fleeing intimate partner violence.

In the decades since, I have had many opportunities to learn more about trans realities, which has benefited me personally as well as the work I do. Unfortunately, over those same decades, I have been witness to conversations about trans inclusion that have shown feminists at our worst. I have been astonished at how, despite the many ways in which we have learned to broaden our understanding of gender-based violence, there has been so much ignorance and hatred on the part of those who are not able to similarly broaden their understanding of gender.

It's time to end the hatred and fear-mongering. Including those who identify as trans and non-binary in our understanding of gender-based violence and among those we work with and provide services for will only make us stronger.

In the violence against women movement, there is a propensity by some to claim the moral high ground, to assert that their position or opinion on a topic is the only one that is truly feminist, or anti-racist, or anti-carceral, or queer and trans positive. While, obviously, there are some defining elements of being any of those things, there's also a lot of room for differing opinions and choice.

Laying claim to the only right position on any issue does not lend itself to learning and growth for anyone. Instead, it leads to splintering and infighting within the movement, to excluding and shutting down voices we need to be part of our work. It means we don't build the solidarity we need to fight back against those systems that create and sustain gender inequity and gender-based violence.

I'm sad to say that we don't always bring compassion or kindness to the table when we disagree with one another. Sometimes, it feels as though we look for the worst in our colleagues rather than starting from an assumption that we are all in this work together and that, while we all get things wrong some of the time, we are working with good intentions. There has to be room for people to learn, which means we have to risk being wrong and being told we are wrong. I know I am wrong some of the time. I know there is a lot I don't know. I want to learn (and unlearn) so I understand realities that fall outside my own lived experiences and privileges and so I can do this work better, but it's hard to do this from a place of fear about being attacked or made to feel like the enemy.

As a movement, we struggle with the place of survivors in our work. We talk a lot about the importance of survivors' voices, of including their lived experiences in all our work, of ensuring their involvement in designing services and engaging in advocacy. But it's not that simple.

First, what do we mean by the word "survivor"? Many of us doing this work have been subjected to some form of gender-based violence during our lives. If we choose not to share our personal histories, does that make us less a survivor than someone who does?

Second, there is no singular "survivor" of gender-based violence. A woman's experience of gender-based violence and how it affects her depends, primarily, on who she is. A white-skinned, middle-class woman, who is Canadian born and reasonably articulate, for instance, will have a

very different experience with the police than an Indigenous woman, a woman who speaks limited English, or a woman who has a history of criminalization. As a result, each of those women's ideas will be different about what role the police should play in responding to gender-based violence. There are as many survivor experiences as there are survivors. How do we synthesize those sometimes competing experiences so they are useful in our work to make systemic change?

Third, what do we mean by including survivors' voices? Unless we create meaningful space at the table for survivors, we are paying only lip service to this commitment. Meaningful space means paying survivors for their time, ensuring that the spaces we want them to enter are safe, creating enough time for survivors to tell their stories however they need to tell them, being prepared to hear criticisms of us and how we do the work, being ready to receive their anger, expecting inconsistency and lack of follow-through, providing emotional support, understanding trauma, and insisting that government consultations include space for survivors that meets all these conditions.

It's a big commitment to include survivors' voices, and we need to be sure we can make it.

The violence against women movement faces serious challenges from the outside, in the form of ongoing government and societal resistance to understanding the seriousness of gender-based violence, and still has much work of its own to do. However, another potential crisis looms: the lack of leadership for the future.

As I began to write this book, my seventieth birthday was on the horizon, and now it has come and gone. That's not an uncommon age for my colleagues in leadership positions in shelters, sexual assault centres, legal clinics, and other community-based organizations that support and serve survivors of gender-based violence, even as we see friends and family members retiring from their vocations at much younger ages.

We all have our own reasons for continuing to work. Some of us are still filled with passion and a drive to be part of the work to end intimate partner violence. Some of us can't afford to retire—this is not a field of work that pays well or provides pensions upon retirement. Some of us, I am sorry to

say, have burned out but are still occupying leadership roles. Some of us stick around because we don't see strong leadership in the wings. Some of us don't want to let go of the power we have within the movement.

The leadership in this work is aging out, but we don't seem to be doing anything to replace ourselves. Of course, this is a problem that has been a long time in the making, so we're not going to solve it overnight, but we need to acknowledge it.

The problem stems in part from the lack of adequate funding for the work. While women of my generation may have been willing to work for low pay and few benefits, or even, in the very early days, for no pay at all, women in subsequent generations have not been so foolish in terms of ensuring their own financial security. Those women take jobs where they can make a decent living, receive health and other benefits for themselves and their families, and retire with at least a small nest egg in hand. Or they work in the violence against women world early in their careers, where they gain valuable experience that can be translated into higher-paying and more secure jobs elsewhere.

This is hard work that we do, and not everyone can stick at it long enough to move into leadership positions, so we can blame the work itself too. Feminism and work for women's equality has taught the generations of women following mine that they shouldn't be paid less than they are worth and that they should be able to go home at four or five o'clock without carrying a load of work—literally or figurately—with them. They don't want to talk to the media at 7 a.m. or 8 p.m. because a woman has been murdered, or to do someone else's job because a colleague is ill, and they know they shouldn't be expected to.

I get all of this. However, this work is a vocation, not a job. It's an honour to be able to do it, even if that means we frequently have to go the extra mile.

But those of us who occupy leadership positions also share in the responsibility for the lack of incoming leadership, because we have done a very poor job of inviting younger and more diverse women to the table. Too many of us think that our way is the only way; that the analysis of gender-based violence we were part of creating thirty, forty, and fifty years ago is still the one we should be using; that to do something differently is to do it incorrectly. We have hung onto our roles as leaders, we've enjoyed the

power and privilege this position has given us, and we have been reluctant to share it with others, especially when those others challenge some of our ideas.

This has been bad for everyone—for us, if we have convinced ourselves that we can't leave the work; and for younger women, who have much to bring to the work and, most importantly, to the movement, which needs the energy, stimulation, and change that will come when leadership passes from our hands to younger ones. It's not as though we have to disappear. Those of us who still have the energy and passion to carry on can (quietly and in the background) mentor new leaders and ensure that the history of our work is not lost.

While there have been and continue to be challenges in the violence against women movement, while we've made mistakes and while we all still have much to learn, I want to conclude by highlighting that, in little more than one generation, we have been able to build an incredible support system for survivors of gender-based violence. We've also had significant successes in holding systems accountable and in making positive change in those systems. Public awareness is at an all-time high, thanks largely to the work of feminist activists. The media pay attention to our voices and to the issue of gendered violence. We've also created a community of well-informed, highly skilled, passionate feminist activists, here to help for the foreseeable future.

And that's a good thing because, as we will now explore, the law offers more than ample challenges for those harmed by intimate partner violence.

Chapter Four

The Law

An imperfect tool

You might think I should have titled this chapter more modestly; perhaps “criminal and family laws” would have been more appropriate than “the law,” since those are the two areas of law I write about here. There’s a simple reason for the lofty title: it reflects the status and power given to the law by people who don’t live inside it the way I do, especially people who turn to it when they are at their most vulnerable. To them, it is a mighty, impenetrable force, scary, unknowable, with the power to wreak havoc on their already troubled lives.

I can’t tell you how many of my clients scuttled almost sideways into my office, so intimidated were they by the thought of engaging with a lawyer, let alone the law. For this reason, I did not hang my law school graduation or law society membership certificates on my office wall and I kept most of my legal tomes out of sight, cluttering up my bookshelves instead with novels, cookbooks, games, and knick-knacks. I may not have thought of myself as an intimidating force, but to many of the women I represented, I was, because I was a gatekeeper to the law.

Folks who have never had a legal issue that needed to be resolved are unconcerned by the complex world of the law: the different sets of rules that govern our behaviour in one arena or another; the procedures that have been developed to make it easier to apply the rules; the intersections, overlaps, and conflicts between and among the various laws. A woman with kids who has just left an abusive partner doesn’t care, for instance, that in Ontario there are multiple laws at both the provincial and federal levels that

play a role in cases of intimate partner violence. There are a few different family laws, along with criminal and child protection laws, provincial offence statutes, and depending on the circumstances, immigration and refugee laws and laws governing Indigenous Peoples. That woman just wants me to use the law so that her kids can keep living with her.

This chapter starts with an examination of criminal law in the context of intimate partner violence, and then we'll move on to family law, which, in my opinion, is the set of laws that has the biggest impact on the largest number of women who leave relationships in which they have been abused.

Criminal law

There's a tendency in western democracies to see criminal law as the ultimate arbiter of right and wrong. Wrong behaviour is determined by the offences detailed in the *Criminal Code*. People who do those things should be punished for having done them. The law ensures that those of us who don't do bad things are protected from those who do.

Of course, it's a lot more complicated than that. Lots of wrong acts are not deemed illegal. Some activities that are illegal probably shouldn't be. The application of the law by the police, and its interpretation by lawyers and judges, is sullied by systemic racism, misogyny, the impacts of historic and ongoing genocide of Indigenous Peoples, classism, ableism, and more. Access to justice is affected by the social location and circumstances of both the survivor and the accused. All of this plays itself out in the context of gender-based violence, including both intimate partner and sexual violence.

With respect to sexual violence, the *Criminal Code* lists several offences that are meant to respond to different kinds of circumstances: the acts in which the accused has engaged, the age of the survivor, the relationship between the survivor and the accused, the capacity of the survivor, and so on. But in many situations, making the criminal response to sexual violence work for either the survivor or the accused still feels like trying to fit a square peg into a round hole. As a result, sexual assault has a very low reporting rate.

Holly Johnson, a well-respected researcher on topics related to intimate partner and sexual violence, has examined trends in police and court

processing of sexual assaults. Drawing on data produced by the Statistics Canada crime victimization survey, she notes that 460,000 women in Canada were victims of sexual assault in 2004. She then analyzes what happened to each of those sexual assaults in terms of a criminal law response. Her work provides chilling if dense reading.¹ To make her findings more manageable for the public, YWCA Canada took the data and created a powerful infographic showing that, out of every 1,000 sexual assaults, 33 are reported to police, 29 are registered as a crime, 12 have charges laid, 6 are prosecuted, and 3 lead to a conviction.² This isn't good for anyone: the survivor, the person who engaged in the sexual violence, or the rest of us.

Intimate partner violence is also difficult to fit within the criminal law framework. There are a number of charges that can be laid when one partner abuses the other: assault, aggravated assault, assault causing bodily harm, forcible confinement, abduction, uttering threats, criminal harassment, and, of course, homicide (first- and second-degree murder and manslaughter), to name just a few. But even this array of charges only covers a small portion of the kinds of abuse to which a woman may be subjected by her intimate partner.

And as with sexual violence, most women don't want to report intimate partner violence to the police. When they do, they lose control of their situation because, in Canada, police are required to lay charges in all domestic violence cases where they believe there is a reasonable likelihood of obtaining a conviction. The challenges posed by this policy are discussed in detail below.

Reporting to the police, even when dealing with a compassionate, well-informed officer, is not pleasant. It's less accessible to some women than others because of their class, race, or, perhaps, past history with the police. Making a report of intimate partner violence to the police means that, if the woman has children, the child protection authority will be called in.

The criminal process for both sexual and intimate partner violence cases is a long one, during most of which the woman will not know what is going on. Her role is that of a witness to her own abuse—with her body, possibly, functioning as evidence. Because she is not a party to the proceedings, she is not privy to much of what is going on and has no voice or power in most of it.

While the case is under way, the accused is likely living in the community under restrictions set out in bail conditions. This time—which could last for months or even longer—is challenging for a survivor of intimate partner violence.

If she didn't want her partner charged, she may not be concerned if he breaches the bail condition prohibiting contact with her. Perhaps she needs him to come to the house to take care of the kids while she goes to work. Perhaps she and the kids miss him and just want to see him. This can be problematic for her later, because her partner's lawyer is likely to raise this contact when he cross-examines her to cast doubt on her evidence about the abuse or her fear of him.

If, on the other hand, she did want her partner to be charged, the bail period is challenging in different ways. He may attempt to intimidate her into letting him see her or come into their home. He may try to bargain with her, promising to do something she wants in exchange for her agreeing to get the bail conditions or even the charges dropped. Of course, once he has what he wants, he's unlikely to follow through on his part of the promise.

In both situations, she is at risk of further violence by her partner.

The case may settle without her being asked how she feels about that. If it doesn't, she will have to speak in an open courtroom about very personal matters and be cross-examined by the abuser's lawyer or, if he doesn't have one, maybe by the abuser himself. She does not get to have a lawyer of her own.

In Canada, someone accused of a crime is presumed innocent until the Crown proves them to be guilty "beyond a reasonable doubt." This is a very high burden of proof: the judge or jury must believe, with almost absolute certainty, that the person did what they have been charged with.

This is good—we don't want people being found guilty because the judge or jury think there's a possibility that they did whatever they were charged with or just because they don't like the look of them. However, in gender-based violence cases, this standard of proof is especially difficult to meet because of the nature of the offence. Most gender-based violence takes place in private. Often, especially in cases of intimate partner violence, it goes on over a long period of time. There may be no physical evidence and no corroboration, and while neither of these is required for a guilty finding,

their absence may be misinterpreted to mean the survivor's story is not credible.

And then what? Suppose the accused in an intimate partner violence case is found guilty. He may or may not go to jail. If he doesn't go to jail, he may have probation conditions that prohibit his contact with the survivor and require him to do, or forbid him from doing, certain things. While jail can provide the survivor with a limited period of time when she is protected from his physical violence, it's not generally helpful for either person in the long run.

As we learned from the CKW Inquest, good programming for intimate partner violence offenders in custody is thin on the ground; what's available once an offender is released is also limited; and supervision of offenders on probation is poor, with little apparent accountability for either the offender or the probation officer when conditions are breached.

Suppose the accused is found not guilty. The message that sends to him, to her, to their children, and to the community is either that the woman was not telling the truth or that intimate partner violence is not taken seriously. Will that woman report the next assault or threat by her partner to the police? Probably not, even if her safety or that of the children is at serious risk.

In other words, criminal law is, in many ways, ill-suited as a response to intimate partner violence. One reason is because criminal law is single-incident focused and the real harm of intimate partner violence is felt through a pattern of behaviours and incidents over time. When a criminal case is based on one charge that reflects one incident out of months or years of abuse, there is often no way to present the evidence needed to establish the impact of the accused's behaviours.

Coercive control

Coercive control is a good example of this mismatch. By definition, it is a pattern of behaviours. Single incidents of coercively controlling behaviour can be all but invisible; it is when they happen in combination with one another, over time, during which they increase in complexity, intensity, and frequency, that they become problematic.

The question of whether or not to criminalize coercive control is challenging. Many women's advocates support moving in this direction;

many do not. I fall on the side against criminalization for several reasons, but I also understand its appeal.

When I practised law, many of my clients had been victimized by partners who engaged in coercively controlling behaviours, although we didn't call it that then. After all, Evan Stark's definitive book on the subject was not published until 2007. We called it emotional or psychological abuse, but what my clients were subjected to often also included social isolation and financial abuse. Whatever we called it, these women were among the most damaged of all my clients. They lived in constant terror of their partner, even if they had left him and were safely housed in the women's shelter, even if he was in jail or had left the area, even if a restraining order or bail conditions were in place. They often lacked autonomy and had little sense of self. Years of being subjected to coercive control had left them unable to make even simple decisions on their own. Their injuries were to their souls, making them invisible to those around them, and could not be fixed with a bandage or stitches, a cast, or physiotherapy.

Some of them wanted their partner to face criminal consequences for their actions, but with rare exceptions, there were no charges that could be laid. My clients were frustrated and I was frustrated on their behalf. Why, we wondered, could someone be charged criminally for one physical assault, even a minor one, but not for years of coercively controlling behaviours?

There are good arguments to be made in favour of criminalization. It would be validating for some women to know that their partner's abuse is seen as criminal. This validation might be empowering for them and increase their confidence in the criminal law. Because coercive control is seen as a frequent predictor of homicide, perhaps criminalization could lead to earlier interventions, thus preventing future lethal violence.

Creating a criminal offence of coercive control would give police and Crown attorneys a new tool in their management of intimate partner violence. Effective charging and prosecution have the potential to hold perpetrators accountable for their actions, creating a deterrent effect.

Given our societal belief that the criminal law determines what behaviours are not acceptable, criminalizing coercive control would make a strong statement that this behaviour is socially indefensible and is being

taken seriously. It could raise public awareness, not just about coercive control, but also about intimate partner violence more generally.

But there are also compelling arguments against criminalization. For one thing, criminal law has not exactly been effective in reducing the rate of intimate partner violence in the past. Survivors under-report; police under-charge, charge the wrong person, or don't charge at all; charges often end with a plea bargain or get dropped when the accused enters into a peace bond; conviction rates are low; and penalties are minimal. There is little evidence that incarceration is helpful. Decreasing the focus on criminal law as a response to intimate partner violence is a controversial topic, but it's an important concept to consider, given the failings of the system to date.

There are specific reasons to be concerned about criminalizing coercive control. Will it, like mandatory charging, be used against women? If a woman is charged, inappropriately, with coercive control, what impact will that have on her family law case, or on child protection concerns? Will it, like mandatory charging, have a differential impact on people from marginalized communities?

Coercive control is hard to define. Can the criminal law establish the core elements of the offence so police know when to lay charges and Crown attorneys know how to prosecute? For example, if coercive control is a pattern of behaviours, what does it take to constitute that pattern? Does something have to happen twice or ten times? Does it depend on how it affects the victim of the crime, or is there an arbitrary number that applies in every case?

What will be considered evidence to establish that the accused has, beyond a reasonable doubt, committed the offence of coercive control? Coercively controlling behaviours often take place in private and seldom result in physical injuries, providing no corroborating evidence. What is the difference between treating a partner badly and engaging in coercively controlling behaviours, especially when there are no witnesses?

How is fear proven? Does the fear have to be "reasonable"? If so, to whom? To the victim? The police officer? The Crown attorney? The judge?

If we criminalize coercive control, how do we ensure that police, prosecutors, and judges understand it properly? Will criminal court supports be put in place for those who have been harmed?

What about, as American law professor Leigh Goodmark calls them, imperfect victims? “Some victimization claims are deemed more credible than others,” she writes. “Women who are abrasive and argumentative, who are aggressive towards their abuser for any reason (including self-defense), or who otherwise fail to conform to traditional female gender roles are imperfect victims.”³

Perhaps, rather than discussing how to make the criminalization of coercive control work, we should be asking ourselves whether we even want to add a new crime to our quiver of laws, when it is already clear that this approach doesn’t work as a response to intimate partner violence.⁴ I’ll come back to this theme in the next chapter.

Bail

Even though a woman, like the victim of any crime, is not a party to the criminal proceeding, once her partner has been charged, she is still very much involved with what happens. Often this engagement begins with the bail process. The woman may or may not be asked how she feels about her partner being released from jail, and her feelings may or may not influence the outcome of the bail hearing. Almost all the time, men charged with offences related to intimate partner violence are released on bail, and almost all the time, those conditions include a clause prohibiting any contact with the victim and any witnesses. In gender-based violence cases, the woman is often both.

There are good reasons for this provision: witnesses to a crime should be free from any attempts by the accused to intimidate or attempt to influence their testimony. And in cases that do not involve intimate partner violence, this condition is generally pretty easy for the accused to follow. If, for instance, I witness a bank robbery, odds are I don’t know the person who has been charged and I have no reason to need or want contact with that individual, nor they with me.

However, in a case of intimate partner violence, the two people most certainly know each other. They may have gotten out of the same bed earlier that day. She may need the accused to come home to be with the kids so she can go to work. The accused may need to return to the family home to collect essential belongings. It may be a child’s birthday the next day.

The children likely don't understand where their father is and why he can't come home.

Bail conditions where the accused and the victim of the crime have a close personal relationship are extremely challenging; more so, if the woman was not the one to call the police and did not want her partner charged. Even if she is afraid of her husband, prohibiting contact between them can feel like an imposition on her well-being.

As a woman said to me after she called 911 because she wanted the police to calm her husband down after he had assaulted her: "I didn't want him charged. Now what am I supposed to do? When they took him away, he had the car keys and the bank card in his pocket. It's Friday. Nothing is going to happen until Monday and I've got no money and no way to take the kids to their activities." That woman is going to think twice before she calls the police another time, even if making that call might be needed to keep her or her children safe.

The role of survivors

Women often do not feel heard or respected in the criminal process. Because they are simply witnesses in the case and not official parties—a role limited to the Crown attorney and the accused—they often have to go to considerable effort to seek out basic information about the status of the case, when the next appearance is, and what's expected of them.

Contrary to what many victims of crime think, the Crown attorney is not their lawyer. The Crown's role is to prosecute the accused, so they have a common interest—to some extent—with the victim, but are employed by the government. The prosecution is conducted on behalf of all of us, not on behalf of the individual victim in a particular case.

Because of this, the Crown cannot give the victim legal advice. As well, there is no solicitor-client privilege between the Crown and the victim: the Crown can—indeed must—disclose case-related evidence to the defence. This disclosure duty extends to any conversations the victim has with associated services, such as any victim assistance staff. Because of this, victims need to be careful of what they share with the Crown and related individuals.

This means the Crown's and victim's interests may conflict from time to time. Maybe the Crown realizes the charge laid will be hard to prove

beyond a reasonable doubt, so they want to offer a deal to the accused if he will plead guilty to a less serious charge. Perhaps the victim is not going to be a good witness or the facts or evidence are not great, so the Crown wants to withdraw the charge entirely or in exchange for the accused entering into a peace bond. Maybe the court docket is overflowing, and this case is seen as less worthy of prosecution than others. While the Crown should consult with the victim to hear her perspective in any of these situations, at the end of the day, it is the Crown who will decide what to do, regardless of the victim's wishes.

Not surprisingly, many women find it terrifying to have to testify against their partner or the person who has sexually assaulted them. It's scary to speak in a public space, surrounded by strangers, no matter the subject, and it's something with which many people have no familiarity. Add to that the imposing atmosphere of the courtroom and the presence of armed police officers, then stir in the subject matter—intimate partner abuse and/or sexual violence—and the fact that the person who caused the harm is sitting close by, and it's easy to see why women sometimes recant or “forget” what they told the police. If, in the time between the charge being laid and the trial, the accused has been on good behaviour, filled with promises of how wonderful life will be once this business is out of the way—or the opposite, he threatens her with dire consequences if he is found guilty—her reluctance to testify is quite understandable.

In sexual assault cases especially, survivors face enormous challenges. Before the trial itself, the defence lawyer may attempt to get access to her therapy records, hoping to find some detail there that would discredit her or show an inconsistency in her statement about the sexual assault. Publication bans are often asked for with no consultation with the survivor; while these bans are intended to protect her privacy and safety, they can also limit her ability to tell her own story outside the courtroom.⁵

Cross-examination by the defence lawyer—even with protections that now exist—can be brutal, destroying the survivor's confidence and soul. The tiniest discrepancy in her story will be used to try to undermine her credibility. She may be questioned about matters that have at best a tenuous connection to the charge before the court. Small wonder that some survivors of intimate partner violence and sexual assault report that the trial was worse than the abuse that led to it.

As has already been discussed, criminal law has a single-incident focus: the accused is charged that on a specific date he did a particular thing, contrary to a section of the *Criminal Code*. For many survivors, it's not easy to pull one incident out of a memory filled with similar events that happened on other dates. This can make a woman's testimony look suspect: a lack of detail, small or not-so-small differences between what appears in her statement to the police and what she is now saying, gaps in what she remembers. She's a sitting duck for the defence lawyer, whose job is to make her look like she is not a reliable or credible witness so as to cast doubt on the Crown's case and show that there is insufficient evidence to find the defendant guilty beyond a reasonable doubt.

The criminal process can be long and slow, with extensive periods of time when nothing appears to be happening, during which information may not be provided to the woman, giving her little sense of control over what lies ahead.

If she has a case unfolding in family court at the same time, she will quickly learn that information is not shared between the two court systems and that her partner's lawyer in the family law case will likely adjourn the matters in that court until the criminal court proceeding has been completed. This can be extremely frustrating for a woman who is anxious to work out pressing parenting and financial issues.

As I will explore in the next chapter, the time has come to bring a radically different approach to how criminal law responds to intimate partner violence. We need an approach that is focused on prevention rather than punishment, that recognizes that some people who cause harm have themselves been harmed by family violence, and that looks to the future as well as into the past.

To return to the words of Malcolm Warmerdam, whose mother, Nathalie, was one of the three women whose murders were examined in the 2022 CKW Inquest in rural eastern Ontario, we need to remember that those who cause harm are "not monsters, but people with good and bad in them, just like the rest of us." As he said, we must find ways to hold those who cause harm accountable that also offer the opportunity for them to heal and learn if we want to truly keep survivors and potential victims safe. Causing further harm to abusers, he said, does not help victims.

Mandatory charging hasn't worked

Mandatory charging directives remain a serious challenge for women who consider reporting intimate partner violence to the police. These directives were introduced, with good intentions, across Canada in the mid-1980s. At that time, there was little domestic violence training for police, and too often, officers were asking a woman, immediately after an assault and while her partner was standing nearby, whether she wanted to charge him. Not surprisingly, given the circumstances, many women said no. The directive took the responsibility about whether or not charges should be laid out of the hands of the woman, by requiring police officers to lay charges in domestic violence cases regardless of her wishes.

The policy has been helpful for some survivors, who say that they wanted their partner charged but would not have been able to make that decision themselves. For these women, having their partner removed from the house to face criminal charges, and having bail conditions imposed that prohibit any contact, gives them time to take a deep breath, assess their situation, and make decisions about whether or not to remain in the relationship. It gives women who decide to leave time to put a plan in place.

But over the forty years since these policies were put in place, we have seen how they have backfired against many women, especially women who are racialized, Indigenous, or criminalized or who have mental health or substance use issues. For example, women have found themselves facing criminal charges when they have called the police because their partner has assaulted them. Sometimes, the police—frustrated by their own lack of discretion, uneducated about the dynamics of intimate partner violence, lacking time to investigate which person is the dominant aggressor, or perhaps believing the mythology that women routinely make up false allegations of abuse—charge both of them, hoping that things will sort themselves out somewhere further down the line.

Sometimes the dominant aggressor spins such a convincing tale situating himself as the victim that the woman alone is charged. For example, he may have manipulated her to the point that she throws something at him or pushes, shoves, or hits him. Or he is choking her, and to protect herself, she rakes her fingernails down his face. When the police

arrive, the bruises on her throat have yet to appear, but those four scratches from her fingernails on each of his cheeks are apparent for all to see.

Across Ontario, family court support workers assist survivors of intimate partner violence in their family law cases.⁶ According to these workers, it is a commonplace event for their clients, most of whom are women, to be criminally charged, often with assault with a weapon. Incredibly, what was deemed by the police to be a weapon has included such items as an empty plastic water bottle thrown from across the room, a baby bottle nipple, a cell phone, a banana, a raw potato, a grape, and a stuffed baby toy.

Laying charges against the woman in these kinds of situations demonstrates a knee-jerk reaction to mandatory charging policies and a lack of nuanced understanding of the dynamics of intimate partner violence. No one's interests are served; the family is further disrupted, the family law case is delayed while criminal proceedings wend their eternally slow way along, and the children's relationship with their mother—likely their primary caregiver to this point—is abruptly terminated, even if temporarily.

Both the CKW Inquest and the Mass Casualty Commission spoke to this issue.

Recommendation 58 from the CKW Inquest calls on the Ontario government to “commission a comprehensive, independent, and evidence-based review of the mandatory charging framework employed in Ontario, with a view to assessing its effect on IPV rates and recidivism, with particular attention to any unintended negative consequences.”⁷

The province's response to this recommendation, provided in June 2023, was to accept it in part. However, the following sentence did not offer much hope that such a review would be imminent: “At this time, the Ministry of the Solicitor General (SOLGEN) does not have plans to commission an independent review of the mandatory charging framework.”⁸

The Mass Casualty Commission, in its Recommendation V.10, goes a step further than the inquest jury, calling for provincial and territorial governments to “replace mandatory arrest and charging policies and protocols for intimate partner violence offences with frameworks for structured decision-making by police, with a focus on violence prevention.” This recommendation further advocates for the federal government to create

a collaborative process that would include gender-based violence advocates, service providers, and others to develop that framework and for provincial/territorial governments to create policies and protocols to implement it once it is developed.⁹

Much has changed since the implementation of mandatory charging policies in the 1980s: there is a greater public understanding of intimate partner violence; police have access to training and, in large urban areas, most police forces have specialized intimate partner violence units; there are more resources for women wishing to leave an abusive partner; and we have seen the ways in which mandatory charging can be harmful to those it is intended to help. I can think of few issues that I'd put ahead of mandatory charging on my list of "must-change" laws and policies. We need a review of mandatory charging, and we need it now. It should be nationally coordinated, since all provinces and territories have some version of such policies in place. And it must include the voices of survivors and perpetrators as well as of those working in the field.

Family law

Popular culture provides us with many opportunities to see criminal law in action. There are many fictionalized television shows and movies—often wildly unrealistic—about police, lawyers, courtrooms, and jails. The growing body of true-life crime shows, including podcasts, further opens the door to our understanding of how criminal law operates, although much of this programming—both fiction and non-fiction—is American and thus of little real use to someone who wants to know what to expect if they are charged with a criminal offence in Canada. Despite their lack of strict accuracy and relevance, these programs do serve to take some of the mystery out of a complex legal process: the viewer's understanding of how something works may be wrong, but perhaps they feel less intimidated about engaging with the legal system.

The same cannot be said of family law. Television shows about family law and court are few and far between, and there is even less to choose from in the world of movies. *Kramer vs. Kramer*, a 1979 film that poignantly explored a family navigating gender roles—especially those related to parenting—in the context of separation and divorce, is more than

forty years old, and how families look and operate has changed considerably in the interim.

And yet, for many women, and almost always for women with children, family law is a more urgent matter than criminal. As discussed above, women are often ambivalent or even hostile about reporting intimate partner violence to the police, but there can be no such ambivalence about sorting out parenting arrangements and often safety, financial, and property matters as well. The issues dealt with by family law will impact the family for years—even decades—into the future. It's a very different beast from criminal law, but many people enter a family law process with ideas drawn directly from popular culture images of criminal law. The significant differences between family and criminal court can create challenges if people are not aware of them.

First, the purpose of the two courts is not the same. A criminal proceeding is intended to determine whether the accused person has done what they were charged with and, if so, to decide on an appropriate consequence. Family court proceedings are to help a family sort out the issues that arise when people end the intimate relationship between them.

As a result of these different purposes, while people can be unhappy with the outcomes of both family and criminal court cases, the nature of those outcomes is quite different in one court compared to the other. A criminal court case can end with someone being incarcerated or being placed on probation, with limitations on their activities. That's not the case in family court, where the outcomes are about such things as where the children will live, who can make decisions about them, which person has to pay support to the other, and how property is to be divided. In cases of intimate partner violence, a family court case could result in the abusive partner having their activities and movement limited under the terms of a restraining order or an order prohibiting them from coming to the family home.

Criminal court is about the accused person's responsibilities to society, or the state, while family court is about people's responsibilities to one another and, when relevant, to their children. This leads to the next difference: in criminal court, the prosecution is led by the state, in the form of the Crown attorney, who is supported by the police and their investigation. In family court, the case is between the two people, with no

state involvement. The exception to this would be in a child protection case, when the lawyer for the child protection agency is, in a way, a representative of the state.

In criminal court, the victim or survivor is not a party to the case. They are an important witness, but, because they are not a party, they don't get to have a lawyer, don't have access to all the information that the Crown and defence lawyer have, are not included in meetings and discussions between the two lawyers and, as mentioned earlier, often have difficulty getting even basic information about the proceedings. In family court, both people are parties. They can have lawyers, they may qualify for legal aid assistance, and they are part of all discussions and have access to all information.

The standard of proof in family court is different from that in criminal court. While to find someone guilty of a criminal offence, the judge or jury have to believe they did it beyond a reasonable doubt, in family court, the judge makes their decision based on whose evidence is more credible "on a balance of probabilities." This simply means that one person's story is more likely than the other's to be true, and it is considered an easier test to meet.

No wonder women are confused and frustrated if they enter family court with images of criminal court proceedings dancing in their heads.

My client Kathryn left her husband, Mark, the first time he hit her. Until this point in their marriage, she had been able to mostly deny the extent of Mark's coercively controlling behaviours, but the smack across her face was the push she needed to grab their two young children and head out the door.

Her decision was made easier because she was financially secure. She had a good job, with money in a savings account as well as in investments. Her parents were wealthy, and she knew they would be there for her. And they were—she and her children, who were seven and nine years old—moved into her parents' large home and, two weeks later, into their own home, purchased for them by her parents. Important as that financial and emotional support was, Mark's tactics made everything else difficult for Kathryn and led to extended litigation, much of which should have been unnecessary.

Both Kathryn and Mark were professionals—she was an academic and he was a banker. They were smart, well educated, and sophisticated. They were both well connected socially—as a couple and separately. Their children enjoyed the material benefits that flow from a family that has plenty of money.

At the time Kathryn became my client, she was a nervous wreck. She second-guessed every decision she made, worried constantly about the impact on the children of her decision to leave their father, was concerned about whose side their friends would take. She was determined to be fair, so from the beginning, the children spent equal amounts of time with each of their parents. It was a dizzying arrangement for young kids, in part because of their extensive schedule of extracurricular activities, but it was working, if barely.

Then Mark set to work. He wrote to her employer, claiming that Kathryn had a serious mental health issue. This was a complete fabrication, but his tale was well told and credible. The letter, which did not mention that he and Kathryn had separated, sounded almost apologetic for having to bring up such a private matter and expressed considerable concern for Kathryn's well-being. It caused her a great deal of personal and professional embarrassment, and as a result, she began to socially isolate herself as she worried about others with whom Mark may have decided to share this "information."

It turned out he knew a lot more about their financial arrangements than Kathryn did, and he got busy blocking her access to both funds and information. Because he worked in the finance sector, this was easy for him to do. He knew all the key players, and they were only too happy to take his word that Kathryn knew about and agreed with what he was doing. Once again, he didn't mention the fact of their separation to any of them.

His creativity hit its peak when it came to the kids. He interpreted the informal fifty-fifty parenting arrangements to mean that he could show up any time he wanted to see the children. When it was his time with the children, Kathryn stayed away, but he showed no such reciprocal respect. Whether it was a piano lesson, a sports event, or a choir practice, Mark was there, front and centre. He was a personable fellow who knew how to work a room, so he mingled and socialized with other parents, while Kathryn sat,

paralyzed and silent, often retreating to her car until the children's activity was over. They, of course, were always happy to see their father.

He started showing up in the parking lot of the children's school on mornings the kids were with Kathryn to say hi to them—but also to hand them a homemade lunch in a paper bag that often had a sad face drawn on it, with the words “Daddy misses you.” The children were upset to see how sad their dad was, and their mother was completely undone. It was a great strategy on his part: he knew it would get under Kathryn's skin, while looking innocent to an outsider.

We brought a motion in family court asking for an order restricting each parent from showing up where their children were during the other parent's time with them, setting out the informal agreement between them, the children's schedules, and Mark's activities. When we all appeared in court for the motion to be argued, Mark was charming, polite, talkative, and tearful. My client sat huddled in her chair, silenced by Mark's cheerful presence. The judge, who had a generally good understanding of family violence, not only denied our motion, but said she wished she saw more fathers in her courtroom who were so keen to spend time with their children.

Mark continued to pop up where the children were when they were with Kathryn, but less often. Perhaps it was that he simply didn't have the time—it was an exhausting regime by any standard—but more likely because he had sent his message to Kathryn: he could and would do whatever he wanted. We tried our motion a couple more times, but the same judge continued to deny it.

About two years after Kathryn and Mark separated, she wanted to have the children with her for a very special family event: her parents' fiftieth wedding anniversary, for which family members were flying in from around the world. This event fell on one of Mark's regular weekends, so, well in advance, she asked him if they could swap some time. He said no. I wrote to his lawyer with the same request. He said no. We brought a motion, which was heard by a visiting judge who saw right through Mark almost immediately. Before coming into the courtroom, he reviewed the past motions and Kathryn's affidavits. He did not even ask for oral arguments, but made an immediate and unambiguous order requiring Mark to accommodate any of Kathryn's requests related to the children around the

time of this family celebration, noting that he had considered ordering Mark to pay Kathryn's costs because his behaviour was so egregious.

Now, Kathryn's story may have had a more or less happy outcome, but it took far longer than it should have to get it, which caused her and her children more anxiety and trauma than was necessary. It's not an outcome that all women could expect—Kathryn had enough financial resources to continue her case over a long period of time, which is just not an option for many women. In other words, one happyish ending does not mean the system works as it should.

Family law doesn't always help

Significant improvements to family laws have been made in Canada in recent years. In particular, substantive changes for the better to the child-related provisions in the *Divorce Act*—the federal law for people getting divorced and sorting out the related issues of parenting arrangements for children, property division, and child and spousal support—came into effect in 2021. The legislation now includes a comprehensive definition of family violence, which is one of the eleven criteria judges are required to take into account as part of the best interests of the child (BIC) test when they make any child-related decision.

Importantly, the definition of family violence is expansive and nuanced:

family violence means any conduct, whether or not the conduct constitutes a criminal offence, by a family member towards another family member, that is violent or threatening or that constitutes a pattern of coercive and controlling behaviour or that causes that other family member to fear for their own safety or for that of another person—and in the case of a child, the direct or indirect exposure to such conduct.^{[10](#)}

The definition then provides a non-exhaustive list of behaviours that constitute family violence, including a number that have not been traditionally acknowledged in family law: psychological and financial abuse, threats to kill or harm animals or damage property, and the killing or harming of animals or damaging of property.

However, the *Divorce Act* applies only to married people who are seeking a divorce. Everyone else must rely on provincial or territorial legislation, and while many jurisdictions have adopted language similar to that of the federal *Divorce Act*, not all have.¹¹ This means that people have access to different family law regimes depending on their marital and family status, which is inconsistent with the equality promises of both the *Charter of Rights and Freedoms* and the *Canadian Human Rights Act*. Section 15 of the *Charter* says we are all equal “before and under the law,” and that we have “the right to the equal protection and equal benefit of the law without discrimination.” The federal human rights code’s definition of prohibited grounds of discrimination includes both marital and family status.

Some family law matters are dealt with only through provincial/territorial legislation, in particular, matters related to property and safety. Restraining or protection orders fall to the provinces and territories to legislate and, as a result, vary from one part of the country to another. The same is true for orders to exclude one spouse from the family home, commonly called exclusive possession orders.

For the most part, family laws treat people who are married and people living in common-law relationships similarly. For instance, regardless of the relationship between the parents—whether they are married, live common-law, or have never lived together—they both have rights and responsibilities with respect to the care of, decision-making for, and financial support of the children. People who live together without being married still have access to spousal support and can apply for a restraining or protection order if they have safety concerns.

In most parts of Canada, though, there are significant differences in how property is treated depending on whether the people are married or living common-law. This can have a huge impact on a woman whose partner has been abusing her, especially if he engages in financial abuse.

To simplify, while married people are required to share equally the value of all the property they have accumulated during their marriage, as well as the full value of the matrimonial home—the home the family was living in at the time of separation—people ending a common-law relationship have no such obligation. They each leave with whatever property they brought into the relationship as well as any property they can

prove they bought during it. If the deed to the home they lived in is in the abuser's name only, the woman has no automatic right to a share of its value or to remain living in it after the relationship has ended. The same goes for his pension.

Many people are unaware of this distinction in the property rights of married versus common-law relationships. More than once, I have had to break this news to clients, clients who quickly became very unhappy.

I particularly remember one woman, in her late fifties, who had lived with her partner for about twenty years. It was a second relationship for him, a first for her. He was an academic, with a good salary and an even better pension. He had owned the home they lived in before she'd met him, so the deed was in his name. She had wanted to get married, but he'd told her that he had been so badly "burned" financially by his ex-wife that he would never marry again.

He was emotionally and financially abusive, controlling the money and assuring her, whenever she asked, that because they had lived together for more than three years, their relationship was legally the same as if they were married. No doubt his tales of woe about his former wife were exaggerated, designed to garner her sympathy and allow him to hold onto most of the power in the relationship. It was a successful strategy.

She came to see me when he abruptly left her in favour of a much younger woman. He had unceremoniously kicked her out of the house she had lived in for more than two decades and told her that she wouldn't see a penny of "his" money. I had the very unpleasant task of letting her know that, while we could probably get an order for spousal support, she would not likely be able to share in the value of the home or his pension.

British Columbia has moved in the direction of creating a common system for handling property division for people whether they are married or living in a common-law relationship. The province's *Family Law Act* applies what could be called an "opt-out" approach to property division. All people who live together are treated the same, whether or not they are married. Those who do not want to be subject to the married people property division regime (that is, a fifty-fifty split of property acquired during the marriage) can opt out by writing a domestic contract to this effect. This may be an equitable approach to property division that does not differentiate on the basis of marital status. It also protects the economically

more vulnerable member of the couple and provides a legal certainty that could reduce the need for people to go to court.

However, to be successful, such an approach needs some supports. A public education campaign is critical, because people need to understand what the law is. Access to free or reasonably priced legal advice to assist those who wish to write an opting out domestic contract is essential. The unique issues that can arise in situations where there is an imbalance of power between the two individuals because one is much wealthier than the other or because of intimate partner violence also have to be considered.

As University of British Columbia law professor Erez Aloni found when he conducted research with thirty couples who began common-law relationships after the *Family Law Act* was amended in 2013 to create the opt-out regime:

Overall, the research raises significant doubt about whether an opt-out approach—as construed in BC and by analogy elsewhere—is the panacea for the regulatory conundrum of nonmarriage. The interviews revealed that couples barely know or understand the law, experience difficulties in opting out, and exhibit cognitive biases and overoptimism in discussing financial obligations.... The upshot is that the “choice” to opt out from the default becomes all but illusory.¹²

There may be challenges with the British Columbia approach (or the new regime may simply be experiencing some growing pains), but there is no doubt that it is time to remove the distinctions in law between married and common-law relationships. People in all types of committed intimate relationships should have the same rights and responsibilities when their relationships break down. Those who want a different regime can create one by entering into a domestic contract, be that a marriage contract or a cohabitation agreement, that stipulates how they want to manage their responsibilities to one another both during and at the end of the relationship.¹³ Of course, whatever regime we might come up with won’t be perfect—a determined abuser could still hide assets or debts, lie, or bully his partner into signing away her rights—but we need something that is better than what we have now.

Family court culture and process can make things worse

Public discourse and policy about the violence that happens in families has been—and often still is—based on an analysis that does not reflect the reality that women are the predominate victims/survivors of abuse that is mostly perpetrated by men. This creates a court culture that leads to bad outcomes that are unsafe for women and their children and not in the children's best interests.

Court culture also often reinforces idealized notions of families and fathers. While it is true that fathers play much larger roles in child-rearing and household chores than was the case in the past—and that's a good thing—women are still the primary parents in most families in Canada, also taking on most of the household management responsibilities and, sometimes, the care of aging extended family members as well. Many mothers struggle on a daily basis to involve their children's father in their care, both during the relationship and after it has ended. Contrary to the claims of men's rights groups, most women would welcome increased parental involvement from their former partner after separation—as long as it doesn't threaten their or the children's well-being or safety.

For a woman leaving an abusive partner who is now aggressively pursuing equal parenting time and an equal role in child-related decision-making, it can feel as though the court sees any father as a good father while expecting her, as the mother and historic primary parent, to prove why and how she is a good mother. This attitude is often coupled with the notion that children always fare better when both parents are closely involved in their lives, regardless of safety issues.

Mothers who raise the issues of intimate partner violence and/or child abuse face an uphill battle in family court. When they won't back down in their quest for parenting orders that will keep their children safe, they may be labelled unreasonable and vindictive or accused of engaging in parental alienation.

It's been an effective strategy: frequently, once a father has alleged parental alienation, the attention of the court shifts to that, with the mother's claims of intimate partner violence quickly forgotten.¹⁴ This is true even if, as is often the case, the evidence of alienation is sparse—sometimes

consisting of nothing more than the fact that the mother has raised the issue of intimate partner violence or that she has left the relationship.

There is strong evidence challenging the claim that every time a child doesn't want to spend time with a parent it is because the other parent has alienated them. According to American researchers Joan Kelly and Janet Johnston, children have many reasons for favouring one parent over the other, intentional alienation being just one of them. Sometimes, a child is more comfortable with the parent who has provided most of their care or with whom they have more in common, or it could be that they don't want to spend time with a parent who has treated them badly or been abusive to their other parent.¹⁵

It may not be said outright, but there continues to be a culture in many Canadian family courtrooms that “good” parents—parents who put their children's best interests first—will find a way to parent collaboratively, no matter the cost to their own safety or emotional well-being. Many women continue to report what I regularly saw when I was in family court: subtle and not-so-subtle hints are dropped by those they encounter that they should set concerns for their own safety aside in order to put their children first. This is nonsensical, as well as being a profound insult to women, most of whom are already intensely focused on their children's well-being.

Women are told—sometimes by their own lawyer—that judges like parents who can “set their differences aside” and work together to raise their children. They are told if they do not appear reasonable (which seems to be code for being receptive to sharing parenting time and decision-making with their abusive former partner), they will suffer the consequences.

There is a way in which the best interests of children and the well-being of their mother have been set up as diametrically opposed to one another. This flies in the face of what both common sense and research tell us: the ability to parent well is rooted in the parent's safety. An unsafe parent cannot parent as well as one who feels safe.

Parenting orders that involve regular contact between the parents (for example, at exchanges of the children or at their activities) and shared decision-making are not safe for mothers whose former partners were or continue to be abusive. This affects the mother's capacity to be the best parent she can, when, in fact, there is no inherent contradiction between

protecting her well-being and ensuring the best interests of her children. And yet, women who resist such orders are seen as selfish, and as popular culture tells us so often, there is nothing worse than a selfish mother.

Family court is not always a friendly place for women fleeing abuse; at times, it can be downright hostile. I've worked with many women who say the family law system—which they expected to protect and help them—revictimized them, as the litigation dragged on, not for months but for years, draining both their emotions and their finances and leading to outcomes that did not reflect the best interests of their children or make them safe.

As in criminal court, women are not always believed when they tell their stories of abuse. They are seen as exaggerating or making up allegations of abuse to get an advantage in their case, even though research has established that raising the issues of intimate partner violence or child abuse in their court cases has a negative impact on women's outcomes.¹⁶ Some women's lawyers discourage them from bringing up the issue of intimate partner violence, saying that the judge "doesn't want to hear about that kind of thing." This is an example of how social attitudes that downplay the presence and impact of violence within the family can make their way into the court culture. And where courts have shown a tendency to disbelieve women, they tend to believe men, who often counter women's stories about abuse by claiming that she is trying to alienate him from his children. In a court system that favours "friendly litigation"—an oxymoron if ever there was one, because if it's friendly, it's not happening in court, and if it's litigation, it's not friendly—it's easier to believe the person who says he just wants everyone to get along than the person who says that's not safe.

In some aspects of a family law case, it can be fairly straightforward to establish whose story to rely on. For example, people's incomes can be verified without too much trouble; someone's claim about what the family home is worth can be confirmed by having an appraisal done; claims about who does what with the children can often, with a small amount of evidence, be established on a balance of probabilities.

However, establishing the presence and impact of intimate partner violence, even on a balance of probabilities, is not so straightforward. If there is no third-party evidence, as is often the case, the judge can only make a decision based on what the two people choose to share. Sometimes, although he is lying, the abuser may come across as credible, while the survivor, who is telling the truth, looks less credible; perhaps because she is so afraid of the abuser, perhaps because she is experiencing trauma as a result of the abuse, perhaps because she has no lawyer to help her understand how to present herself in court or to put together good evidence.

The judge may not understand why the survivor didn't leave the relationship sooner or why she has never called the police, which might lead the judge to believe the abuser when he denies the survivor's allegations. If she did call the police but no charges were laid, or the Crown declined to prosecute or the accused was not found guilty, this outcome from the criminal law side might affect the family court judge's assessment of the woman's credibility with respect to her claims of abuse.

Courts like people to move on and put the past behind them. That's easy for the abuser to do—who wants to bring up all that nasty old stuff, anyway?—but impossible for the survivor because there is no “past” when it comes to the abuse; it's continuing to happen to her, even as the court case unfolds. She can only move on if and when the legal systems acknowledge the ongoing safety issues and put measures in place to protect her.

The myth of friendly litigation leads to an undue emphasis in family court on alternative dispute resolution (ADR) processes as a way to resolve family law disputes. Like collaborative parenting, ADR is a great idea if there is a relatively equal balance of power between the two people and they can set aside their personal feelings in favour of putting the best interests of their children front and centre. However, when any of those factors is missing, which is often the case when there has been intimate partner violence, ADR is not likely to work well.¹⁷

On the positive side, even in cases involving intimate partner violence, if the survivor feels she can hold her own in negotiations with her former partner, ADR can give her more input to the final settlement and can be

faster and cheaper. It's also a private process, which may appeal to some people.

Less positively, if the abuser has engaged in coercively controlling behaviours and the survivor is intimidated by and afraid of him, she is likely to accept outcomes through ADR that are not what she really wants. She may be unable to challenge or contradict him, he may engage in threatening behaviours that are invisible to everyone but her, or he may bully her outside the ADR session when there are no witnesses. In addition, that coercively controlling partner—who may be charming and convincing to those around him—is not likely to listen well, be honest in his communication, or be willing to compromise, all of which are essential for ADR to be successful. Unfortunately, despite the seemingly obvious downsides to ADR in cases involving intimate partner violence, women are often encouraged or even pressured into it, sometimes by their own lawyer, sometimes by family members or friends, sometimes by legal aid programs, and sometimes by the judge.

Equally challenging for a woman who has left an abusive partner, especially if the abuse continues post-separation, is the concept of “friendly parenting.” Courts want to see—indeed, the law requires it—parents who indicate they can work together to raise their children, even if their own relationship is over. This is a great concept when the two parents have even a modicum of respect for each other and can put their children's interests ahead of their own hurt feelings or anger. But it's just not realistic—or safe—without those conditions or when one parent is afraid of the other because of abuse. It's also not in the best interests of the children, which is supposed to be the basis on which all child-related decisions are made in family court, to require their mother to collaborate with their father when there is a history of abuse. Mothers cannot make good decisions when they are afraid and may submit to plans for the children because they have been bullied into doing so by their former partner.

A key piece in improving the experience of survivors of intimate partner violence in family court is ensuring that both lawyers and judges are well educated about the violence that can happen in families. When they are not, they may bring their own stereotypes and biases into court with them and

impose those biases on the families turning to the courts for help. Long-held and not-yet-fully-discarded beliefs that children always do better when their parents collaborate and that mediation is always better than litigation force women with abusive ex-partners into processes and outcomes that are not safe for them or in their children's best interests. Judges who lack cultural awareness education fail to see the unique ways that intimate partner violence plays out in some families and make orders that are not reflective of different cultural norms.

Law students have limited opportunities to learn about family violence and how it intersects with family law. Some professors ensure that students read at least a few cases where family violence is dealt with, and some invite community experts to present a seminar in advanced family law courses. But to the best of my knowledge, there is no Canadian law school that offers a full credit course on family violence and the law.

There's a tool to assist professors who want to introduce courses on gender-based violence. In 2012, I worked with the Law Commission of Ontario to create *Curriculum Modules in Ontario Law Schools: A Framework for Teaching about Violence Against Women*.¹⁸ Its goal was to ensure that all law students, not just those planning to practise family, criminal, or tort law, learn how to address issues related to gender-based violence with clients who have been subjected to or have caused violence. As noted in the framework's introduction:

Law school curricula provide limited training on VAW issues or on understanding and supporting clients who have experienced violence. While some law schools have faculty members who are experts in legal issues related to VAW and make efforts to integrate these issues into their teaching, most law students can graduate from law school without any exposure to these issues.

We developed modules with suggestions and reading lists for how to set the context and explore key issues in every law course. Our proposed curriculum set out a foundational context, then moved on to units about what violence against women is, its relationship to various areas of law including—as well as the to-be-expected family and criminal law—social welfare and tort law, quasi-legal remedies, and public policy. The

curriculum also focused on ethics and professionalism. That framework is more than ten years old now, so it needs a little updating, but the bones are there and should be used.

Because so little is taught about gender-based violence in law schools, most of what lawyers, including those who become judges, learn about it comes after graduation. As I admitted in the prologue, I knew very little about intimate partner violence when I represented my first client who was fleeing an abusive partner. I learned as quickly as I could, but I made mistakes that I could have avoided had intimate partner violence been part of my law school curriculum. I'm sure there are other lawyers with similar stories.

Over the past couple of decades, inquests and inquiries like Ontario's CKW Inquest and Nova Scotia's Desmond Fatality Inquiry, and reports from various domestic violence death review committees across the country, have recommended education for lawyers and judges. And slowly, courses have become available for those who want to increase their understanding of intimate partner violence. However, to date, those courses are offered to lawyers and judges who choose to attend; they're not mandatory. Often this means that the lawyers and judges who need them the most don't attend.

In the case of judges, this is, in part, because of the important constitutionally protected separation of powers that protects the judges' independence. However, the prevalence and seriousness of intimate partner violence, and the way in which it is inextricably intertwined with law, requires that all judges have a comprehensive understanding of it.

The impacts of trauma

When I was new to the work of representing survivors of intimate partner violence, I didn't know anything about trauma. I assumed that my family law clients would enter into their relationship with me prepared to fully engage. I expected some tears, and had Kleenex at the ready for that, but I didn't anticipate the full range of emotions and needs that my clients would present to me. Thank goodness for Judith Herman.

Herman's ground-breaking book *Trauma and Recovery: The Aftermath of Violence—from Domestic Abuse to Political Terror*, was first published in

1992. In it, she took what was known about PTSD, largely in the context of military veterans, and applied it to survivors of intimate partner violence.

Before I discovered Herman, I was often confounded by the behaviours of some of my clients. “Doesn’t she know I am on her side?” I wondered to myself after a client had treated my legal advice with fury. “Why does she keep missing appointments and not bringing me the documentation I need?” I asked my empty office. Some days, I even succumbed to asking myself why some of my clients were so unreasonable. As I read Herman, I began to understand.

While not all survivors of intimate partner violence suffer trauma, many do and this trauma can take different forms. The longer the abuse has gone on and the more complex it has been, the more likely the survivor is to experience various mental and physical health issues, trauma being one of them. In addition to trauma, survivors have increased risk of developing depression, of using substances in an unhealthy way, of having eating, sleeping, or anxiety disorders.

The abuser may aggravate the situation through gaslighting the survivor, causing her to doubt her memory of events and fear she is crazy. He might interfere in her access to support and treatment. Or he might use the trauma she is dealing with against her—to discredit her evidence in criminal court or to argue in family court that she is an unfit mother.

Trauma, which is often long-lasting, can create significant challenges for a woman as she works to resolve her family law issues. She may be reluctant to share information about the abuse with her lawyer, meaning the lawyer lacks what they need to put together a strong case. Difficulty concentrating is common, which will make it challenging for her to take in, understand, and retain the information she needs to move her case ahead. Legal information, to the uninformed, is complex and hard to understand, and when trauma creates an additional barrier the woman may simply give up even trying to understand what her lawyer is telling her.

She may not have had the opportunity to make her own decisions for some time or have been punished for making the “wrong” decisions. That history, coupled with ongoing trauma, can mean she is unable to decide on the outcomes she wants in her case or the legal strategy she wants her lawyer to use.

It's not uncommon for someone with trauma to appear (or be) hard to get along with or even unreasonable. She might be unreliable, miss appointments or court dates, or make decisions that seem contrary to what is best for her children.

A woman with trauma may present with a very flat affect, telling a horrific story about the abuse she has been subjected to or sharing that her ex-partner has told her he is going to abduct their child in a tone of voice better suited to rhyming off a grocery list. It's extremely disconcerting to the listener, because we all have our ideas—often incorrect—of how a victim of abuse should look, behave, and talk.

Traumatized clients both over- and under-identify their risk of harm, which can make it hard for the lawyer to do their job, and will often display high levels of emotion from one extreme to the other.

My own journey to grasping the importance of understanding the trauma many of my clients were dealing with has been a long and slow one that I suspect is not yet over. Despite what I have learned, I am surprised again and again by how much I still don't know. I think my personal experience is somewhat paralleled by that of the legal profession more generally; over time, we have begun to understand the need for a trauma-informed approach when working with survivors and perpetrators of intimate partner violence if we are to minimize the negative fallout in family court for those clients. Like me, the profession has come a long way but still needs to do more work if it is to serve survivors as well as they deserve.

He can be a charmer and a bully

In the course of my time representing Susana, my first client, we had to attend what is called a settlement conference. At the time, these kinds of proceedings took place outside the courtroom. They were intended to be a slightly less formal opportunity for the judge to talk to the people and their lawyers about whether there was any common ground around the issues in dispute.

This conference took place in the small library at the courthouse. The judge sat at one end of the table, Susana and I on one side, and her ex and his lawyer on the other. A court security person stood in the corner of the room. The judge asked me to summarize Susana's position. I began by

telling the judge what Susana wanted: sole custody (now called sole decision-making and primary parenting time), with her ex to have access on specified dates and times. As I listed Susana's concerns for her safety by describing her partner's abuse, he suddenly jumped up onto the table and lunged for Susana, ready to wrap his hands around her neck.

Several things happened very quickly. Someone—I'm sorry to say that it may have been me—shrieked, the judge grabbed her papers and ran from the room, yelling to the other lawyer as she went: "Sir, get your client under control. And prepare him for the fact that he is not going to like the outcome today." The security person reached for Susana's former partner, and his lawyer looked at me with chagrin written all over his face.

The drama was over soon. The other lawyer got his client off the table and left the room with him. The clerk came to tell us the judge was ready to resume matters as soon as we were all ready.

When the dust had settled, I realized that, through those brief but intense moments, Susana had done nothing. She did not jump away from her partner when he came towards her; she did not yell, cry, or cringe. She just sat where she was and stared at the wall across from her. Her partner's behaviour was nothing new, and she knew that the best way to deal with it was to make herself as invisible as she could.

At the end of the day, Susana and I emerged with the order she had sought, and her former partner left with the judge's caution ringing in his ears about the consequences should he ever behave in a similar manner again. My biggest takeaway? I thought that I'd be able to count on the inability of abusers to control themselves in front of a judge, which would be good news for my future clients. But I couldn't have been more wrong. I certainly encountered other abusers whose behaviour did them no good (showing up late, showing up high, not showing up, flirting with the judge), but I never again had to deal with a former partner of a client who tried to abuse her physically in front of the judge.

For the most part, I encountered abusers who went out of their way to be charming to everyone they encountered during the family court case. They presented themselves as though they were baffled by their partner's decision to leave the relationship, disconsolate that they were not with their children all of the time, and heartbroken that their partner wanted to set limits on their interactions with her. Some could cry at the drop of a hat.

They seemed keen to do anything that the judge suggested; they were, or so they wanted us to believe, nothing but cooperative and easygoing guys who just wanted what was best for their kids.

Then there are the bullies. Abusers often use the family law and court process as a way to maintain power and control over and to intimidate, harass, and induce fear in their former partner. There are a lot of legal bullying tactics, some of which exist because of the way family law and the family court process are structured.

An abuser might employ delaying tactics—ask for repeated adjournments, change lawyers, file incomplete documents—thus extending the length of the legal proceedings and the frequency of the contact the survivor must have with him. He might bring repeated motions on issues that have already been decided or that have no merit, because doing so forces the survivor to engage with him.

Sometimes abusers represent themselves for the primary purpose of being able to have direct contact with the survivor. It's also easier to get away with breaking the rules if you don't have a lawyer and can claim, "Oh, your Honour, I'm sorry. I didn't know I was supposed to do that / wasn't allowed to do that / etc."

Especially in small communities where there are not a lot of family law lawyers, an abuser might "consult" with every one of them, which then means—even if he doesn't hire any of them—they can never act for the survivor. And of course, once there are orders in place, he can fail to follow them, leaving the survivor to decide whether she will just let it go or take him back to court.

His goals are simple. Make sure she knows he is still in charge, make her life as difficult as possible, make her regret ever having left him, get her to concede to the outcomes he wants or manipulate her into coming back to him. If she has a lawyer, she will waste her money or the hours on her legal aid certificate paying the lawyer to manage her former partner. If she does not have a lawyer, she will have to deal with him directly, which may be both physically and psychologically unsafe.

It's difficult to deal effectively with a legal bully, because the court process encourages negotiation and collaboration and is designed to accommodate the reality that families often have legitimate reasons to return to court over time to deal with changes in their circumstances.

Because family law is so open-ended, it's easy for an abuser to find ways to manipulate the system, and because families often appear in front of a different judge every time they come to court, it can take a long time before anyone in a position of power notices what is going on and takes steps to control it. By this time, the survivor may have already caved in to the abuser's demands, having reached the limit of her emotional and financial resources.

We need more lawyers and legal aid funding

More than half of those involved in a family law case do not have a lawyer, according to a Statistics Canada report released in June 2021, which notes that the number of unrepresented litigants in family court has been steadily rising since 2014.^{[19](#)}

No one should have to deal with a serious legal problem without a lawyer, just as no one should be expected to deal with anything other than minor medical issues without access to health care professionals. Family law cases are rife with emotion, and the outcomes can have long-term impacts on everyone in the family. Everyone involved needs to have good legal advice and a legal professional to guide them through the process. But as research shows, there is a special need for legal representation in cases involving abuse.

In research undertaken in 2020, 44 percent of judges interviewed indicated that they felt there were gender differences in why people did not have lawyers: men often chose to represent themselves so they could directly confront their former partner, while most women have economic reasons for not hiring a lawyer.^{[20](#)} When there has been a history of abuse, that man who wants to directly confront his former partner may pose a significant risk to her physical and emotional safety, especially if she, too, is unrepresented. As one judge noted, with respect to victims of domestic violence who don't have a lawyer: "There is always the fear that this category of self rep is not truly or accurately articulating their position because of fear or intimidation."^{[21](#)}

Other research explores further challenges with unrepresented litigants in family court.^{[22](#)} The survivor's ongoing trauma and fear of her former partner will make it extremely difficult, if not impossible, for her to manage her case without a lawyer. The abuser needs to be represented so that there

is a shield between him and the survivor and some measure of control over his behaviour. In fact, these cases call out for legal representation of the highest order; ideally, by lawyers who have taken specialized training to fully understand the dynamics of intimate partner violence and appropriate family law remedies, who understand the need to screen new clients, engage in ongoing risk assessment and safety planning, work collaboratively with community services that may be supporting their client, and are willing to think outside the box. When either the survivor or the abuser is unrepresented, challenges arise and appropriate outcomes are harder to achieve. When neither of them has a lawyer, in addition to concerns about outcomes, very real safety risks arise for the survivor throughout the court process.

Legal aid programs across the country have restrictive financial eligibility criteria that mean many women who cannot possibly afford to pay for their own lawyer are not poor enough to qualify for legal aid assistance. Further, not all the legal issues a survivor is dealing with are covered by legal aid plans. If a woman is turned down for legal aid assistance, the appeal process—especially if she doesn't have an advocate—is complicated. It's also very difficult for people to change lawyers if they are receiving financial assistance from a legal aid plan.

Then there are the issues that leave many lawyers disinclined to accept legal aid work: the hourly rate is low, there are unrealistic caps on the number of hours a lawyer can bill for specific legal issues, and billing requirements are onerous. Most legal aid dollars are reserved for criminal law cases, with fewer flowing to family law. This creates a gendered inequality in terms of access to legal representation: more men are criminally charged (with any offence, not just offences related to intimate partner violence) than are women, and more women need legal aid assistance with their family law case than do men, because women's incomes tend to be lower.²³ According to Legal Aid Ontario, in 2020/21, almost twice as many certificates were issued for criminal matters than were provided for family law cases.²⁴

In 2017, a group of single mothers in British Columbia began a constitutional challenge against the government and the province's legal aid plan about how legal aid dollars were distributed, arguing that the *Charter*-protected equality rights of women, specifically those leaving abusive

partners, to liberty and security of the person were violated by legal aid and government policies that had significantly cut funding for family law legal aid. Their claim was that these policy decisions exposed them to the risk of further violence. After four years before the courts, a landmark settlement was reached in early 2024 in which the government agreed to provide a major infusion of money to a range of legal aid services in family law specifically directed to people dealing with family violence.²⁵ As Legal Aid British Columbia CEO Michael Bryant said: “Family law litigation has been weaponized by the powerful and privileged to abuse women ... now these low-income folks will get a platoon of Legal Aid family law lawyers who can stand up to the powerful, hoisting them on their over-lawyered petard.”²⁶

Without access to good legal representation, survivors of gender-based violence do not have true access to justice. I have seen this dynamic play out since I opened my law practice three decades ago. At that time, I provided what amounted to hundreds of pro bono hours to clients who either couldn’t get a legal aid certificate at all or whose certificate provided so few hours of representation that I felt I had no ethical choice but to contribute my own time to their case. At one point, I jokingly suggested to my friends that I should be able to get a charitable tax receipt for all of my unpaid work on behalf of intimate partner violence survivors.

Without a lawyer, these clients would have struggled to manage their family law case. They did not have the legal knowledge to put a strong case together, did not know how the family court process worked, and would have been overwhelmed by the rules and paperwork. They would have been further victimized by their abusive ex-partner until they caved to what he wanted, in some instances returning to the relationship and in others accepting outcomes that were less than the law would have given them.

That’s still the situation today. Along with many other women’s advocates in Ontario and across Canada, I have engaged in ongoing advocacy to improve legal aid programs in terms of funding, eligibility criteria, and awareness of intimate partner violence. It has largely been discouraging work, with few substantive improvements for the women our organizations serve. However, I take hope from the British Columbia settlement, which offers an inspiring model for a future approach to improving access to justice for survivors of intimate partner violence.

Much can happen outside the courtroom

The challenges for women fleeing abuse extend beyond the courtroom, because abusers use family law issues—in particular, parenting arrangements—to maintain their hold over their former partner. Before there are court orders in place, there may be few or no limitations on the abuser's movements or contact with his former partner or his children, meaning he can and will take advantage of any opportunity to prove to the woman that he is still in charge of her and the family. If he can also wear her down so she concedes to the outcomes he wants or returns to her, all the better for him.

It's not hard to see why a woman would return to her partner, despite his history of abusing her, if every time they meet to exchange the children he verbally abuses, threatens, or physically assaults her. She can see the impact of this behaviour on the children, who, of necessity, are witnesses.

Communication—by phone, text, email, or in person—can become verbally and emotionally violent, as the abuser focuses on his need to maintain power and control, and the mother attempts to focus on whatever child-related issue they are supposed to be talking about.

Starting a new life free from the abuser is made much more difficult before court orders dealing with the family finances are in place. She may be dependent on the abuser for all of her money, so if he withholds it or threatens to do so, what is she to do? She may be willing to scrape by, but she doesn't want the children deprived of their usual standard of living. I've worked with women whose partners have told them they have to have sex with them before they will provide child support. While this demand meets the definition of sexual assault, since her "consent" for the sexual activity has clearly been coerced, few women are willing to talk about this.

If she has had to leave the family home and he remains in it, she may be worried that he is destroying or throwing away items that are important to her or the children.

His family or even her own may be encouraging her to make another attempt at saving the relationship, telling her it will be better for the children or that he is a good provider.

Children often want to go home and to see their father. Home is familiar; unlike the shelter, a family member's home, or somewhere else

new where they are living with their mother. Even when kids have some understanding that their father is mistreating their mother, worry about her, and want her to be safe, they continue to love their father and want to be sure he is okay too. Their father's actions may make it even more difficult for them to resist aligning with him: they may be too afraid of him not to, or they may succumb to the bribery found in gifts of tech, trips, and special events.

Court is over, but the challenges continue

The day comes, finally, when the family court case is over. There is an order in place that, while not perfect, might be decent, and if it's not decent, at least it's an ending of some kind. Let's say the kids are going to live primarily with their mother and see their father on a regular basis. The parents have to share decision-making responsibility, but he's never been that interested in what the kids do before, so she figures he'll leave most of that responsibility to her. They're going to sell the house, which makes her sad, but with the money from the sale she thinks she can buy a small place for her and the children. He's going to pay child support, and she's supposed to get 50 percent of his pension.

She's emotionally exhausted, the kids are not in great shape, she's gone into debt, and her parents remortgaged their home to pay her legal bills. But it's over, and for the first time in years she thinks she can start to look ahead.

But then the bullying starts up again. He bickers over pick-up and drop-off times; in fact, he shows up whenever he likes to pick the kids up and he often returns them either early or late. He's quit his job, so there's no money for child support. Despite having never paid attention to the children's activities before, suddenly he has an opinion on everything—and it's always the opposite of hers. Their fourteen-year-old has played soccer every summer for six years, but now he has decided he won't agree to that because he thinks she should give baseball a try. He won't contribute to the cost of orthodontic work for the eleven-year-old, claiming it's not needed.

He's living in the matrimonial home and is refusing to do the necessary work so it can be listed for sale. She feels as though every time she turns around, he's there: he's started attending services at her church, he's in the grocery store when she's shopping, he turns up at the kids' activities, he

even popped in to her father's eightieth birthday party. He texts her relentlessly and parks outside her workplace. Some days, she thinks it would be easier for her and better for the kids if she just went back to him. Which is exactly what some women do.

What about women without children?

Obviously, even though much of what has been discussed here is about mothers, it's not just women with children who turn to family law and court when they leave a relationship in which they were subjected to abuse. Women without kids need family law to sort out spousal support and property division, as well as when they have safety concerns. With or without children, a woman seeking a divorce will engage with the family law system.

While some of the challenges with family law and court that I have discussed above are specific to situations involving children, many of them are not. The lack of judicial education, attitudes of disbelief when women tell stories of intimate partner violence, inadequate legal aid assistance, trauma, the push to alternative dispute resolution, the charming abuser, the lengthiness of court proceedings, legal bullying—all of these affect women without children too and can lead to bad outcomes for them, outcomes in which they settle for less than they have a right to or in which they return to the abuser, just because they can't bear to continue.

In fact, important as it is that the law is changing to better reflect the impact of intimate partner violence on children, we run the risk of ignoring the plight of women without children still in their care if this becomes our singular focus. I think in particular of older women who decide to leave an abusive partner after decades of marriage and abuse. They have enormous challenges in just leaving the relationship. Money may be tight and, if it was a traditional marriage, most of it may be "his." She may be worried about how her husband will manage if she leaves him. Will he remember to take his medication? Does he know how to cook or do laundry? She may think she lacks the skills to be a single person. Her values or her religion may be telling her it is wrong to end her marriage.

And where will she go? A shelter may not be very appealing to someone who hasn't had children around for a long time. If she has not told

anyone about the abuse, it will be difficult for her to do so now and, if she does, she may be met with disbelief because of her long silence.

Adult children can add to the challenges facing a woman in this situation. I had several women in their seventies as clients who told me that their children had taken their father's "side." They didn't deny that their father treated their mother badly, but they saw her, not him, as the cause of the family disruption. They worried about how their father would cope on his own and seemed to think that, because the abuse had been going on for such a long time, there was no reason for their mother to say she had had enough.

"How will we manage Christmas?" they asked their mother. "Who will we invite to the children's birthday parties and school plays?" "What's going to happen if dad gets sick?" One of my clients decided to stay with her husband, despite the abuse, because her daughter said she wouldn't let her see the grandchildren if she left.

Violence within the family against older women is a serious problem. According to a 2021 Statistics Canada report, family violence against people aged sixty-five and older has risen by 37 percent since 2009. Women were the victims of 82 percent of domestic violence homicides in this age group.^{[27](#)}

In 2017, Helen Ryan was shot and killed by her husband in the emergency department of their local hospital in Cobourg, Ontario. He was then shot and killed by police.^{[28](#)} These deaths were entirely preventable. Because of health problems each of them was dealing with, a personal support worker was in and out of their home on a frequent and regular basis. Helen's deteriorating health meant she was dependent on her husband for help with her daily living activities, but his health was declining as well. She wanted to move into a long-term care facility, but he refused. There was a history of abuse by him, including threats with guns to kill Helen, which she had talked about with their PSW. Management in the trailer park where they lived were concerned for Helen's safety. A month before he killed her, based on concerns raised by the PSW, neighbours, and others, the police convened a situation table to discuss whether an intervention might be needed, but concluded that no further action was required.^{[29](#)}

The day of the shootings, the perpetrator needed to be taken to the hospital by ambulance, and the PSW decided that Helen needed to go as well, because she couldn't care for herself. The worker informed the emergency medical services of the concerns for Helen's safety vis-à-vis her husband, so she was transported in a separate ambulance. EMS advised medical personnel at the hospital of the concerns for Helen's safety. Nonetheless, somehow the perpetrator managed to bring a gun with him in the ambulance, and the Ryans were placed in the same room once they both arrived at the hospital emergency department, which is where the perpetrator killed Helen.

An inquest held into the Ryan deaths in the fall of 2023 produced thirty-two recommendations, most aimed at community-based health support services, the Ontario Hospital Association, and the Ministry of Health. The final recommendation repeated the first recommendation from the CKW Inquest, calling on the government to declare intimate partner violence an epidemic.^{[30](#)}

When the law fails ...

What is a woman to do when the outcome of her family law case leaves her and/or her children unsafe? Hollywood would have us believe that, if she is attractive enough and has access to enough money, she can escape the abuser, children in tow, and after some rough going emerge victorious, with the abuser in prison or, even better, dead. The 2002 film *Enough*, starring Jennifer Lopez, tells a dramatic (and fictitious) story of a woman and her child trying to flee her abusive husband, ending satisfyingly with Lopez's character killing her husband (she took martial arts training before she went on the run) and she and her child living happily ever after.^{[31](#)}

A more realistic story, because it doesn't have a happy ending, is told in *Black and Blue*, a novel by Anna Quindlen, later made into a movie, about a woman, Fran, who goes underground with her son to escape her abusive partner, a New York City police officer.^{[32](#)} She establishes a new life for herself and her son, and the two of them begin to believe they have left the abuse behind. However, her son misses his father and one day makes a phone call to him, through which the abuser is able to track their location. He shows up, beats Fran into unconsciousness, and takes their son. Fran never sees the boy again.

Stories about real women going into hiding to protect themselves and/or their children from further abuse seldom have happy endings. About twenty years ago, such a woman reached out to me by telephone. I've never learned how she knew about me, but we talked several times over the course of three or four years. I didn't know her name or where she was. She had gone on the run with her young son to protect him from further sexual abuse by his father, with whom the custody order required him to spend time. She and her son had been moving around Canada for a few years before we spoke, and they managed to stay out of sight of the authorities for a few more, but in the end, she was caught. She and her son were returned to Ontario from another part of Canada and she was charged with parental child abduction offences.

Hers was an unusual story in that she managed to stay out of sight for almost a decade—something that it is very hard to do with a child. As well, the serious criminal charges against her were dropped, and she was able to maintain a relationship with her son. In her mind, any price she paid for her actions had been well worth it because, as she said to me while she was in custody, she managed to protect him when he was too young to protect himself.

Fast forward to 2022 and the story of Dawn Walker and her child. Dawn, a well-known Indigenous writer, turned to both the family and criminal legal systems for protection from her partner's abuse and because of her concerns for her child's well-being. Having reached a dead end in the legal systems by the summer of 2022, she decided to take matters into her own hands. Believing there was no other way to keep her child safe, she took her child and crossed the border from Saskatchewan into the United States. They were found by American authorities, her child was returned to the father, and she was arrested and held in custody because she was deemed to be a flight risk.

Dawn was extradited to Canada, where she faced numerous criminal charges: mischief, parental abduction in contravention of a custody order, unlawfully procuring identity documents, charges related to forging a passport, identity fraud—as well as some charges in the United States. After spending a year living under very restrictive bail conditions, during which time her former partner had sole custody of their child, in October 2023, Dawn entered guilty pleas to three of the charges she was facing and was

given a twelve-month sentence in the community, followed by eighteen months of probation.³³ Shortly thereafter, the US charges were withdrawn. The family court issues remain unresolved at this time.

In a 2009 paper, University of Maryland's Leigh Goodmark explores the ethical issues for a lawyer whose client may want to disappear.³⁴ As she points out, there are far fewer complications and legal issues for a woman without children who decides to disappear, although if she needs to change her identity, there are legal requirements and ramifications. There is also no guarantee that turning her life upside down to escape an abusive ex-partner will be successful; many abusive men are extremely persistent in tracking down a disappeared former partner. It's also a lonely way to live, because the woman will likely have to leave behind not just her partner but her family, friends, and employment too.

The challenges for women with children are enormous. The children themselves are her biggest risk: they get lonely and call a friend, they say something at school about where they used to live or they forget their new name, they are angry with their mother so they call their father, they miss their grandparents and they want to hug their cat. Challenging as it was for Quindlen's character to disappear in the late 1990s, it was a breeze compared to today because we now live in a world where it has become almost impossible to hide. When children (and their friends) have their own communication devices, there's really no way to ensure they won't reach out to someone from their old life. Tracking devices, spyware, GPS systems—all can aid an abuser who is even minimally tech-savvy.

If a mother who takes her children before a parenting order is in place gets caught, she will have an uphill battle to convince the court she should be granted any unsupervised parenting time at all. Even if the court accepts that she left because of concerns about the children's safety, her self-help approach will likely be viewed in a negative light that will influence the court's decisions about future parenting arrangements. If she leaves with the children in contravention of the parenting provisions in a family court order, she faces potentially significant legal consequences if caught, consequences that could mean the children spend even more time with the father than set out in the original order. Add to this the fact that the children's father will likely be busy on social media and elsewhere presenting a carefully curated

and less-than-honest picture of the family with him as the victimized, loving dad who just wants to see his children.

So, what's a lawyer to do when a client says she wants to take off with her kids? Here's what Goodmark has to say:

A lawyer must rely on her experience and the experiences of her clients in negotiating the legal system. I know from my own practice and from my study of the experiences of battered women ... that the legal system fails them in a variety of ways. Given that knowledge, I am ethically conflicted when a client wants to explore the pros and cons of going underground. Can I reassure her that the legal system is a viable alternative, knowing what I know about that system, or am I honest with her about its drawbacks? Can I, in good faith, counsel her that the legal system will protect her? And, if I describe the system as I understand it, am I violating the rules of professional conduct?³⁵

Happily for me, this only came up once when I was practising law. In that instance, I told my client that I fully understood why she wanted to disappear, then walked her through the realities of trying to do that. She did not have access to much money and, without using her professional qualifications, would have trouble finding a decent-paying job. How would they manage financially? Her kids were just old enough to challenge her decision to uproot them and rebel against it. Was she capable of leaving her aging parents wondering and worrying about what had happened to her? How would she get identification for herself and the kids, and without it, what were her plans about school and health care? Finally, was she prepared to lose any contact with her children and perhaps spend years in jail if she were caught?

I also tried to make sure she understood that my cautions were pragmatic in nature and that I understood why she wanted to go into hiding. In terms of protecting myself from possible disciplinary action should she get caught after disappearing and say I had told her to go on the run, I made careful, detailed notes of our discussions and sent her a summary letter outlining what we had talked about.

The appointment when we discussed her question about disappearing was the last time I saw her. Did she take off with her kids? Probably not, because if she had, I'm pretty sure I would have heard about it.

We've just taken a close look at the barriers, including legal barriers, to improving responses to intimate partner violence and to ending it. Now, we'll move on to look at what we can do to find solutions.

Chapter Five

What We Can Do

Where do we start?

Where and how do we begin to think about how to fix this problem of intimate partner violence? What do I even mean by this question?

One possible meaning could be improving the responses to intimate partner violence after it happens: increasing services and supports for survivors, ensuring adequate programming for those who have caused the harm, writing new laws and improving those that already exist, maybe even creating new systems outside those we have now.

Another could be preventing intimate partner violence from happening in the first place. To move towards this goal, we need to acknowledge the complex roles of entrenched systems that allow poverty, racism, and misogyny to flourish. Those are big systems to change and the work can feel overwhelming, so we need to break that work into manageable pieces by taking on specific initiatives: supporting campaigns to bring in a basic income program; working with our municipalities to create community safety and well-being plans; educating colleagues, friends, and family members about intimate partner violence using programs like the Neighbours, Friends and Families initiative in Ontario.¹

The truth is that we can't take an either/or approach to solving this problem. We need to do both: improve our responses to intimate partner violence as we work to prevent it from happening altogether. To be successful, we need a heretofore unseen public and political commitment to improving responses to intimate partner violence and preventing it from happening. We also need to think creatively and consider brand new ideas

as well as those that have been tossed aside in the past as being too radical or too expensive.

We may be a small word, but in this case, it describes a very large assortment of people. Subject matter experts, of course, including not just academic and professional experts, but also those who are experts by virtue of their lived experiences: survivors, family members of victims who did not survive, and front-line workers. Everyone whose job brings them in contact with anyone affected by intimate partner violence: social workers, administrators of government programs like social assistance and housing, child care workers, teachers, health care providers and institutions, police, probation and parole officers, psychologists, lawyers, judges, prosecutors, those working in the carceral system. People with cultural expertise, whether professional or through lived experience; disabled folks and those who work with them; newcomers to Canada and the professionals who provide them with services and supports.

Rates of gender-based violence, including intimate partner violence, in Indigenous communities show the impact of the history of genocide, the theft of land and children, the residential schools system and the Sixties Scoop, the eradication of Indigenous languages and cultures, and ongoing racism leading to a disproportionate rate of criminalization of Indigenous people as well as poverty. Non-Indigenous Canadians must find ways to work with and beside Indigenous communities, turning for leadership to those who know about the realities of intimate partner violence in Indigenous communities and the role of colonization and genocide, rather than thinking we know what needs to be done. This work needs to ensure we bring a distinctions-based approach, understanding the unique cultures and needs of different Indigenous communities.

We already have tools we should be turning to for guidance. The Calls to Action of the Truth and Reconciliation Commission provide one pathway; the Calls to Justice of the National Inquiry into Missing and Murdered Indigenous Women provide another.² As Women's Shelters Canada's 2021 *Roadmap for the National Action Plan on Violence Against Women and Gender-Based Violence* states:

In a process of true engagement with the role of the state and colonial systems in the design and perpetuation of violence against

Indigenous women, a frank reckoning with how to mobilize Indigenous knowledge for creating new systems based on old knowledge of prevention and response [is needed]. Importantly, however, it must not homogenize or westernize Indigenous legal practices.³

We must also ensure that members of 2SLGBTQI+ communities are part of the discussion, as well as both young and old people, poverty experts, and those with lived experiences of poverty. We need to invite people with political power and others in decision-making roles as well as key decision-makers in the private sector, and we need to talk with people in other countries who have already figured some of this out. Neighbours, friends, and family need to be involved, which brings pretty much everyone into the discussion, because—whether we know it or not—all of us have some kind of connection with at least one person who is being abused and one who is causing that harm.

Finally and critically, we need to include those who cause the harm, because we have much to learn from them.

I know this is a long list, but I hope you read it carefully. Now I want you to read it again to see how many different places you pop up. I find myself in at least four of the categories of people who need to be involved in helping us figure out how to fix the problem of intimate partner violence. And that's my point: all of us have something to contribute to figuring this mess out, and we all should feel an obligation to be part of forging solutions that will bring us closer to a world in which no one is harmed by or lives in fear of someone who says they love them.

It's not an easy task to think about what we need to do. At times, it is an uncomfortable one, because we all have to consider ways in which we contribute—consciously or unconsciously, intentionally or unintentionally, actively or passively—to creating and maintaining the culture within which intimate partner violence flourishes.

The roots of violence

If we are to end intimate partner and gender-based violence, we have to have a common understanding of what it is. According to the federal government's 2021 National Action Plan to End Gender-Based Violence:

“GBV is rooted in gender inequality and is further intensified by systemic inequalities, such as sexism, discrimination on the basis of sexual orientation, gender identity and expression, colonialism, racism, ableism, classism, poverty, and a collective history of trauma.”⁴

That’s fine as far as it goes, but it doesn’t tell the whole story. It’s too easy for our minds to drift off when we just read a list of “isms.” They have become so common as to be trite. The words in the list above are too polite to have any real meaning. To say that gender-based violence is rooted in gender inequality is a pretty soft start to a statement meant to frame a serious response to the violence that victimizes so many women and children in this country. If we really want to end gender-based violence, we need to add some words that truthfully describe the ugly realities that are hidden when, as good Canadians, we insist on being polite.

In this context, that culture of politeness, rather than being admirable, is a mask for indifference, an excuse for passivity, a means to not get involved. How often do we not say something when we see or hear a misogynist comment or joke because we don’t want to be seen as lacking in a sense of humour? Or back away from intervening when we see intimate partner violence or other behaviour that sets off alarm bells because we’re afraid we might be wrong or we don’t want to interfere?

The same is true when it comes to the language we use to define gender-based violence: politeness is not what we should be concerned with. For example, what if we were to replace the word “sexism,” which means prejudice or discrimination on the basis of sex or gender, with the word “misogyny,” which means the hatred of women? Surely sexism is born from misogyny, and without ending the latter, we will continue to have the former. Violence against women would not thrive if misogyny did not exist.

We could replace the phrase “discrimination on the basis of sexual orientation [and] gender identity and expression” with the words “homophobia” and “transphobia.” After all, heterosexual people and people who live comfortably in the genders we were assigned at birth are not subjected to discrimination on the basis of our sexual orientation or gender identity and expression. By using that phrase, we are masking what we really mean: people who identify as anything other than heterosexual face hatred and discrimination by people who fear them.

“Colonialism” is too kind a word for what was nothing less than the genocide of Indigenous Peoples, the theft of their land, language, and children, and ongoing anti-Indigenous racism. As a result, the first inhabitants of this land live in poverty, often with no access to adequate health care, clean water, safe housing, and decent education. They are at increased jeopardy of becoming criminalized in numbers greatly disproportionate to the size of their population. “Racism” doesn’t tell us who is subjected to this form of discrimination and who is perpetrating it. “Classism” does not describe the pro-middle-class bias of, for example, child protection systems that leads some women not to seek support when their partner is abusing them out of fear of losing their children. “Poverty” is a sanitized word for the reality of being poor, a reality that can force a woman to live on the street in order to escape an abusive partner.

To end gender-based violence, we need to de-prettify the language so it is honest. Then we need to address intersectionality and the reality that those with intersecting identities who are also marginalized are more vulnerable both to being subjected to gender-based violence and to encountering challenges when they try to access services and support. Once we have correctly named the factors that contribute to and condone gender-based violence both individually and collectively, we have to understand how all of them affect women differently, depending on those intersecting identities.

Let me use myself to illustrate what I mean. Like all women, I have been subjected to sexism, at times to misogyny, at times to gender-based violence. My opinion, even on matters about which I am well informed, has been dismissed for no reason other than my gender. Assumptions are made that, because I am a feminist, I am a man-hater. I have been called names for the anti-violence work I do. I’ve been sexually assaulted more than once.

None of these things should have happened to me. Those experiences ranged from the unpleasant to the horrible, and my reactions from discomfort and irritation to fury and fear.

However, because I am white-skinned, the sexism and misogyny I have experienced were not compounded by racism. I’ve never been told, “Go back to where you came from” or had someone explain that the gender-based violence I’ve been subjected to is “cultural.” Because I am white,

articulate, and economically privileged, I was able to get the help I needed when I was sexually assaulted. Because I am able-bodied and in good mental and emotional health, I have the internal resources I need to help me deal with the bad things that happen to me. I don't have to worry that if I call the police, they will dismiss me because I am Indigenous, Black, a sex worker, or a drug user. No matter how tough my days may be some of the time because of the work I do, I know I have a safe and comfortable home to retreat to, I know I will be able to have a good meal, I know I will be able to take a vacation.

Because I inhabit a body that is consistent with the gender I was assigned at birth and that I am comfortable with, I don't face challenges when I have to tick a box identifying my gender or use a public washroom. My partner is a man, so even though we are not married, when he is dealing with a medical crisis, I am assumed to be his spouse and automatically get the rights associated with that status.

My only experience with true terror, the only time I thought people actually wanted to cause me serious harm, was when, as a public school trustee in the 1990s, I spoke up publicly against homophobic remarks made by the chair of the school board. I immediately came under attack by many in the Christian right communities, who rallied to support the bigoted board chair. I received so many obscene phone calls and death threats at home that my partner and I did not allow our kids to answer the phone or to be home unless at least one of us was there with them. I had to walk through angry protest picket lines every time I went to a school board meeting, once getting hit by a fervent protester. I was booed and hissed when I rose to speak. I was dismissed by the police when I reported the death threats (which culminated in a bomb threat during the municipal election) as having brought this trouble upon myself through my outspokenness about unpopular issues.

All of this came as a shock to me. I had been a political activist on a wide range of "unpopular" issues for many years. Some of that activism had led to my being arrested and criminally charged. A couple of times I went to jail for short stints. Sure, people booed us when we blockaded a street and wrote disparaging letters to the editor when we occupied a politician's office, but no one ever threatened my life or called me obscene names. Why was this time different? Because speaking out about homophobia associated

me with people who were feared and hated for their sexual orientation and made me as suspect as they were. I didn't really think in terms of intersectionality in those days, but I now realize what a good look that experience gave me at how much more challenging—and dangerous—life is for those with intersecting identities that also include marginalizations.

Let's try a rewrite to the federal government's description of the causes of gender-based violence to see if that builds a better foundation from which we can think about what needs to come next:

GBV, to which women and girls are disproportionately subjected, is rooted in misogyny, sexism, and women's ongoing lack of substantive equity. It is further intensified by the genocide of Indigenous Peoples and the theft of their land, languages, and children; homophobia and transphobia; white supremacy; discrimination against people who are poor or disabled; and collective histories resulting in varying degrees of trauma. Diverse intersecting identities increase both the likelihood that someone will be subjected to gender-based violence and the challenges they face when they seek support and services.

While this definition is not yet perfect, I hope it makes the causes of the problem more clear, so we can move on to think about solutions.

An all-of-society approach

Intimate partner violence is an all-of-society problem. Canadian journalist Brian Vallée got it right when he wrote, in 2007:

We live on a planet beset by war. In North America alone, the most familiar wars—those spotlighted by the media—include the War on Drugs, the War on Terror, the War on Crime, the Gulf War, the war in Afghanistan and the war in Iraq....

There is another war—largely overlooked but even more deadly—with far more victims killed by “hostiles.” But these dead are not labelled heroes, nor are they honoured in the national media or in formal ceremonies. From time to time they may attract a spate of

publicity as the result of a high-profile trial or an inquest that will likely conclude that society let them down once again and recommend changes to prevent future deaths, though these recommendations will be mostly ignored. This war is the War on Women.⁵

Responding to an all-of-society problem like the war on women requires an all-of-society approach. So far, most attempts to change our responses to intimate partner violence have been piecemeal and responsive to individual tragedies. There has been a lack of big-picture thinking, coordination, and communication.

Excellent ideas that surface in reports, inquest recommendations, and the like too often sit on shelves where they gather dust as the violence continues. The work of the Nova Scotia Mass Casualty Commission included an environmental scan of all prior recommendations related to topics the commission was examining, including gender-based and intimate partner violence. More than thirty commissions of inquiry, government standing committees, law reform commissions, government commissions, and coroners' inquests and inquiries that focused on intimate partner violence were reviewed. Across Canada, according to the scan, more than a thousand recommendations related to intimate partner violence have been made over the past thirty years.⁶ It is a more challenging undertaking to find data about how many of these recommendations have been meaningfully implemented. Certainly, many recommendations appear again and again, which seems to be a clear indication that, even if some steps have been taken to implement them, those steps have not been complete or effective.

Canada's National Action Plan to End Gender-Based Violence says:

Ending GBV is everyone's responsibility. It is a multi-faceted and complex issue that requires cross-sectoral approaches, with responses from education, health, justice, and social service sectors. Working in partnership across orders of government, with victims and survivors, Indigenous partners, direct service providers, experts, researchers, advocates, and the private sector is essential.⁷

The Mass Casualty Commission's 2023 final report puts it slightly differently:

Gender-based violence is a societal problem and requires a whole of society response.... We need to understand that the problems and solutions are holistic and multifactored. They involve many systems, which can interact to reinforce rather than prevent violence against women.⁸

A first step

One small but nonetheless significant step that we could take would be to declare, at local, provincial/territorial, and national levels, that intimate partner violence is an epidemic. Canada's then chief public health officer, Dr. Gregory Taylor, made a move in this direction in 2016, when he called family violence an important public health crisis.⁹

The first recommendation of the 2022 CKW Inquest called on the Government of Ontario to "formally declare intimate partner violence as an epidemic,"¹⁰ an approach that was referenced and supported by the Mass Casualty Commission:

We agree that recognizing gender-based, intimate partner, and family violence as an epidemic is a valuable first step in mobilizing the collective action toward the substantive steps needed to prevent and eradicate these forms of violence. The word "epidemic" signifies the scope of the problem as prevailing and sweeping, and also speaks to its toxic and unhealthy character.¹¹

While the province of Ontario initially rejected the recommendation to declare intimate partner violence an epidemic, many communities, both rural and urban—led by the rural community of Lanark County, whose county council made this declaration in December 2022—have done so. At the time of writing, almost one hundred municipalities have made the declaration; in Toronto, Mayor Olivia Chow made this her second resolution after taking office in 2023.

When the federal government provided its response to the CKW Inquest recommendations, Attorney General and Minister of Justice Arif Virani

wrote: “Gender-based violence (GBV), including intimate partner violence (IPV), is unacceptable and has no place in our country. The Government of Canada is committed to ending the GBV epidemic in all its forms.”¹² Not a declaration, but a strong statement that uses the word “epidemic” nonetheless, and one that felt especially encouraging to those of us who had been advocating with no success for the provincial government to declare intimate partner violence an epidemic.

A national action plan

In 2012, the United Nations published a handbook to support countries in developing national action plans to end violence against women. It begins with these words:

States have clear obligations under international law to address violence against women. States are required to exercise due diligence to prevent acts of violence against women; to investigate such acts and prosecute and punish perpetrators; and to provide redress and relief to victims. The requirement to adopt and implement national action plans to address violence against women is set out in international and regional human rights instruments and policy documents.... Many States have recognized that a coordinated and sustained approach is necessary to address so serious, prevalent and deeply entrenched a problem as violence against women.... National Action Plans are essential to this effort, providing comprehensive, multisectoral and sustained “blueprints for ending violence against women.” Such plans enable all the sectors involved to coordinate and systematize their activity, evaluating and building on initiatives so that approaches remain adaptive and responsive for years to come.¹³

In Canada, the idea of a national action plan was first proposed in 1993 by the Canadian Panel on Violence Against Women.¹⁴ In 2013, informed by the UN handbook, the Canadian Network of Women’s Shelters & Transition Houses (now Women’s Shelters Canada) wrote *The Case for a National Action Plan on Violence Against Women*, which reached the conclusion that such a plan was needed. It offered a starting point for discussion about a

comprehensive strategy to develop Canada’s first national plan, noting: “It is clear that in the absence of a National Action Plan, responses to VAW in Canada are largely fragmented, often inaccessible, and can work to impede rather than improve women’s safety.”¹⁵

It wasn’t until 2017 that Canada launched It’s Time: Canada’s Strategy to Prevent and Address Gender-Based Violence, which focused on three areas: prevention, support for survivors and their families, and promotion of responsive legal and justice systems.¹⁶ Influenced to some extent—but not enough—by Women’s Shelters Canada’s *Roadmap for the National Action Plan*, which had been developed with funding from Women and Gender Equality Canada (WAGE), the federal government replaced the strategy with a National Action Plan to End Gender-Based Violence, which was launched by the Minister for Women and Gender Equality and Youth in late 2022.

Bilateral agreements have since been signed between the federal and provincial/territorial governments, with the exception of Quebec.¹⁷ Through those agreements, the federal government is flowing almost \$540 million over five years “to enable provinces and territories to supplement and enhance services and supports within their jurisdictions to prevent gender-based violence and support survivors.”

The Australian Model

Canada may have much to learn from the Australian model. The first Australian National Action Plan was implemented in 2010 and ran until 2022. It has now been replaced by a second plan, to run until 2033, that provides a vision and a policy framework to guide actions to end violence against women and children and supports a collaborative process across governments, civil society, and survivors:

All parts of society including governments, businesses and workplaces, media, schools and education institutions, the family, domestic and sexual violence sector, communities and all individuals, must work together to achieve the shared vision of ending gender-based violence in one generation.

Source: Australian Government Department of Social Services, “The National Plan to End Violence against Women and Children, 2022–2032,” dss.gov.au.

Transparency and accountability

Meaningful systemic change requires transparency and accountability, particularly on the part of governments. Most often, implementation of recommendations for change that flow from inquests, reports, research, commissions, and government committees is not mandatory. When there are few (or no) systems in place to require transparency and accountability, it's easy for those in power to ignore recommendations or selectively choose which systemic changes they will act on.

Not surprisingly, this patchwork approach to systemic change can create new problems, because recommendations are generally not intended to be implemented in individual silos. A piecemeal approach also leads to a lack of confidence on the part of those who are seeking the change, and leads people and organizations to disengage from the process of advocating for systemic reforms.

The first step to ensuring that the needed global changes are made is to put transparency and accountability measures in place. We see strong thinking about this approach in Women's Shelters Canada 2021 *Roadmap for the National Action Plan*. As part of its ten-year vision for the development and implementation of a national action plan, the report calls for

the formation and funding of an independent oversight body to systematically monitor the overall progress towards the development and implementation of the [National Action Plan (NAP)]; to undertake evaluations of the government's actions towards the NAP goals; provide regular and publicly available reporting on the implementation of the NAP; and generate evidence that is available to all, to deepen knowledge and understanding about exactly what is working and why, or why not.^{[18](#)}

The Roadmap further notes that the oversight body must be composed of community experts and survivors who are representative of diverse communities in Canada.

The Roadmap is written from an understanding that ending gender-based violence is a long-term undertaking; that over the life of that work,

governments and government priorities will change; and that all financial costs cannot be anticipated before the work is begun. As its lead author Amanda Dale says: “Our hope was that the Roadmap would create the kind of framework that would allow a considered response to the whole picture of violence against all women.”¹⁹

The CKW Inquest recommendations also speak to the need for accountability. Recommendation 2 would have the Government of Ontario

establish an independent Intimate Partner Violence Commission dedicated to eradicating intimate partner violence (IPV) and acting as a voice that speaks on behalf of survivors and victims’ families, raising public awareness, and ensuring the transparency and accountability of government and other organizations in addressing IPV in all its forms.²⁰

In fact, the provincial government could simply reinstate and expand the Violence Against Women Roundtable, created under the leadership of former premier Kathleen Wynne. That body brought community-based violence against women experts across a wide spectrum together with government decision-makers for rich conversations about how to move ahead with effective policy and program development to improve responses to this violence and to raise public awareness.

The CKW Inquest’s Recommendation 5 calls for accountability with respect to this specific inquest. It calls on the Government of Ontario to:

Immediately institute a provincial implementation committee dedicated to ensuring that the recommendations from this Inquest are comprehensively considered, and any responses are fully reported and published. The committee should include senior members of relevant ministries central to IPV and an equal number of community IPV experts. It should be chaired by an independent IPV expert who could speak freely on progress made on implementation.

Both of these recommendations, as well as others aimed at holding governments accountable for their actions—and inactions—were rejected by the province in its June 2023 response.

The jury's 86th and final recommendation proposed another, very grassroots kind of accountability: "The Parties to this Inquest should: Reconvene one year following the Verdict to discuss the progress in implementing these recommendations."

As described in [chapter one](#), this happened in the form of both a closed meeting organized by the Office of the Chief Coroner and attended by parties, jurors, and some of the bodies to whom recommendations had been directed, and a public meeting organized by Luke's Place. These events were held in Renfrew County on June 28, 2023, and while there was considerable anger by those involved at the lack of a positive response from the provincial government—to which most recommendations had been directed—there was also a real commitment among those in attendance to find ways to work together to continue to advocate for the recommendations' implementation.

Contrast the decision of Ontario to reject the recommendation for external oversight with the governmental response to the Mass Casualty Commission, which weighs in on accountability with its Recommendation V-17. That recommendation calls for a national accountability framework that would include "an independent and impartial gender-based-violence commissioner," established by statute, "with adequate, stable funding, and effective powers, including the responsibility to make an annual report to Parliament."²¹ The mandate for the commissioner would be developed in consultation with provincial and territorial governments, women survivors, and gender-based-violence advocates.

On May 31, 2023, just two months after the commission released its final report, the federal and Nova Scotia governments announced the appointment of retired justice Linda Lee Oland as the founding chair of the Progress Monitoring Committee, which has the mandate to monitor and report on the steps Canada and Nova Scotia take to respond to the Mass Casualty Commission's final report. In July 2023, the committee's terms of reference were released,²² and committee members were appointed in the fall. The committee's work, as set out in its terms of reference, is to be guided by a commitment to trust and respect, collaboration, consensus,

diversity, and bringing a trauma-informed and victim-centric approach. Committee membership is mandated to be diverse and to include, among others, representation from the gender-based violence advocacy and support sectors as well as Indigenous and African Canadian community organizations.

Thinking across systems

The Women's Shelters Canada Roadmap called for a coordinated and cross-sectoral approach to ending gender-based violence. To this end, the organization created four working groups to reflect the "interplay between community's call for action in these policy areas, and government's shaping of those calls into succinct 'pillars.'" The four pillars that provided the focus for Women's Shelters Canada's work examined environmental and social infrastructure, violence prevention, legal and justice systems, and supports for survivors and their families. Work on these four pillars was done alongside the independent work of a fifth pillar on Indigenous women's leadership. As the Roadmap states:

Given the shocking levels of violence against Indigenous women, our project was keen to make connections with both this fifth pillar of work and with the separate but related process of developing a national action plan in response to the findings of the National Inquiry into Missing and Murdered Indigenous Women and Girls.^{[23](#)}

While the work of developing recommendations was divided among the pillars described above, there was considerable overlap in the themes identified by the individual working groups, which produced a total of more than 120 recommendations, many with multiple elements. Common themes won't come as a surprise; they included such things as income security, adequate housing and health care, core funding for anti-violence and prevention work, engaging boys and young men in the work, developing a national data collection framework, improving immigration pathways, providing education and training for legal system professionals, increasing free independent legal advice for survivors, rationalizing family law across the country, gun control, and transformative justice.

Some of these themes can also be found in the work of the CKW Inquest as well as the Mass Casualty Commission. For instance, the Mass Casualty Commission's final report talks about the importance of centring the experiences of women, lifting women and girls out of poverty, decentring the criminal system towards a public health prevention model, prioritizing primary prevention, supporting healthy masculinities, and putting women's safety first.

By virtue of what an inquest is, the recommendations of the CKW Inquest are more specific, but the jury grouped them into themes that are similar to those we see in both the Roadmap and the Mass Casualty Commission report. These themes include oversight and accountability; systemic approaches, collaboration, and communication; funding; education and training; and safety. Specific matters such as law reform, gun control, and managing perpetrators are sprinkled throughout and across these themes, but many of these concerns have been around for much longer than any of these three reports, dating back to past inquests, domestic violence death review committee reports from different parts of the country, academic research, and government commissions and reports.

In other words, it's not that we don't know what we need to do; we just haven't found the social and political will to do it.

Making something good from tragedy

Far too many women's and children's lives are profoundly and negatively affected by acts of family violence. When a woman or child is killed in an act of gender-based violence, the harm is permanent. Nothing can bring those victims back to life. But sometimes, we can build something good in the aftermath of those deaths.

The Barbra Schlifer Commemorative Clinic in downtown Toronto is one example of this dynamic. Established in 1985 and named for a young lawyer who was sexually assaulted and killed in the stairwell of her apartment building on the day she was called to the Bar, the clinic provides legal services and representation, trauma-informed counselling, and multilingual interpretation to diverse women who have been subjected to violence, as well as engaging in law reform advocacy and appearing as an intervenor in important cases.^{[24](#)}

A framework for change

1. We all have the right to live our lives free from abuse and the threat of abuse, especially in our intimate relationships.
2. It's everyone's responsibility to end violence against women and gender-based violence, which means ending misogyny and sexism using an intersectional lens to reflect the experiences of diverse individuals and communities.
3. We cannot lose sight of the fact that gender-based violence is, well, gendered, while also accepting that men can be victimized and women can be causers of harm, and without excluding people whose gender identity is fluid or non-binary.
4. The best kinds of change come through collaborative partnerships that include survivors, those who cause the harm, front-line workers, professionals, community partners, system decision-makers, media, and politicians. Include everyone; we're all affected by gender-based violence in one way or another, and we all have ideas to offer up to the work.
5. We cannot lose sight of the big picture—prevention—in favour of serving and supporting those already harmed. We must find ways to do both pieces of work simultaneously.
6. The consideration of possible negative consequences must be a priority in all work for change. It's far better to take the time at the beginning of the process to think about what could go wrong with what seems like a great new idea than to do so later, when harm may have already been done. Mandatory charging is an excellent illustration of this principle.
7. We need to think outside the box. We've tinkered with this problem for long enough; now it's time to blow it all up and get really creative.

8. Don't waste time worrying about the money; think of the changes we need to make and then figure out how they can be paid for.

Adapted from a framework I offered to the jury of the CKW Inquest to assist it in developing recommendations for systemic change.

Another example is Luke's Place Support and Resource Centre for Women and Children. Located in Durham Region, Luke's Place is Canada's only stand-alone family law support centre of excellence for women who have been subjected to abuse. Its direct service work uses a wraparound team approach and, with legal support workers at its heart, the organization provides direct supports to women across Ontario. Luke's Place also shares its expertise with service providers across Canada through training, resources, and mentoring; works with academics to conduct community-engaged research; and collaborates with other feminist organizations to advocate for improved access to justice for women and children.²⁵

The Luke's Place approach to direct service delivery—in particular, the legal support worker concept—served as the model when the Ontario government developed the provincial Family Court Support Worker Program.²⁶ That program provides important case management support to women fleeing abuse who are involved with family court; it operates in every court district in Ontario and has, in turn, inspired similar programs in other parts of the country. Survivors of intimate partner violence who access this program are provided with information about family law, family court process, and getting a lawyer; assisted in gathering and organizing evidence about the abuse to which they have been subjected; supported with safety planning; and given referrals to other services and supports they may need, all at no cost and with no financial eligibility criteria.

None of this would have happened without a tragedy: the murder of three-year-old Luke by his father, who also killed himself, on his first unsupervised access visit. Luke's mother, Kate, had left her husband shortly before her son was killed, after years of escalating abuse.²⁷ Kate had hired a lawyer and started a case in family court, seeking sole custody and supervised access because she was worried about her husband's mental health. By the end of her day in court—which was really a day sitting in the

courthouse waiting area, trying to keep her distance from her husband while the lawyers negotiated with one another—her husband had agreed to allow her to have sole custody, but wanted unsupervised time with Luke in exchange. Kate was persuaded by her lawyer that she needed to look cooperative or she might lose sole custody, so, despite her serious concerns about Luke’s safety in his father’s care, she “agreed” to unsupervised access. Luke’s father picked him up the next day, and Kate never saw her son again.

Kate and Luke had lived in Durham Region, and Kate had fled to a local shelter with her son shortly before going to family court to sort out arrangements for Luke. Following Luke’s death, professionals and survivors in the Durham community came together to explore solutions for addressing the difficulties experienced by survivors and their children in the family law system. After research and a community conference, survivors and organizational, legal, and political leaders made the recommendation to develop a women’s resource centre dealing specifically with parenting issues. This led to the creation of Luke’s Place.

Almost every government commission, inquest, inquiry, or death review committee report on the topic of gender-based violence talks about the need for education. I could wallpaper my entire house with those recommendations. Everyone needs to know more about gender-based and intimate partner violence. Police, lawyers including Crown attorneys, judges and justices of the peace, probation officers, child protection workers, therapists, psychologists, doctors, nurses, dentists, physiotherapists: according to report after report, there’s no profession that wouldn’t benefit from education and training.

There are some good models to build on, and we need to make the programs mandatory rather than voluntary. We also need to build in accountability. It’s not enough to tick the box of having attended a seminar or training session; professionals need to apply what they have been taught and face consequences if they don’t. One step in that direction provides us with another making good from tragedy story.

On February 7, 2020, as many of us were first hearing about a mysterious virus that might be headed our way, Jennifer Kagan reluctantly sent her

four-year-old daughter, Keira, off for her scheduled time with her father. Reluctantly because, after almost four years of intense litigation in which Jennifer had told the court again and again about the abuse she had been subjected to by her husband and her serious concerns about Keira's safety when she was in his care, he continued to have frequent, lengthy, and unsupervised time with her, as ordered by the family court.

During the protracted legal proceedings, the court found that Keira's father had an "unfortunate propensity to lie," and lie he did: about his education, about having Indigenous heritage, and about online intimate relationships he denied. Former partners provided evidence about his emotional abuse, which he also denied. He made fraudulent representations to the court.

Jennifer provided extensive evidence of her husband's abuse of her, and the judge in the initial trial—ultimately, the case would appear before at least ten judges and the court would issue more than fifty decisions—acknowledged it, but said it was not relevant to the father's ability to be a good parent, so, he told Jennifer, he didn't need or want to hear about it.

An interim agreement set out the schedule for the time Keira was to spend with each of her parents. Keira's father ignored it when it suited him, taking his daughter without consent and outside the terms of the agreement and refusing to return her when the agreement required him to. The police and three child protection authorities were involved with the family on different occasions.

In the weeks and days leading up to February 7, 2020, more risk factors emerged. The police had to be called to assist with a return of Keira to her mother because her father would not release her. When Jennifer came back to court just days before Keira's weekend with her father, she told the judge she had concerns that Keira's father was going to harm her. She also shared her concerns directly with the child protection agency.

The judge asked the child protection agency to complete an updated risk assessment and raised the possibility of reducing the father's parenting time or limiting him to supervised access because his erratic behaviour was escalating. On February 6, the child protection worker handling the file said they were considering making an application for a protection order but would not discuss that possibility with their supervisor until after the weekend. Astonishingly under the circumstances, the father was given the

opportunity to review the file that contained the child protection concerns just prior to his February weekend with Keira.

Jennifer's reluctance to allow Keira to spend that weekend with her father was well founded: two days later, on February 9, Keira and her father were found dead at the bottom of a cliff in Rattlesnake Point Conservation Area, near Milton, Ontario.

Jennifer advocated tirelessly to have her daughter's death reviewed by Ontario's Domestic Violence Death Review Committee and for an inquest into the circumstances of Keira's death. In February 2023, the DVDRC released its report and the coroner announced that there would be an inquest. While the police were initially reluctant to identify the circumstances of the deaths, the DVDRC report found twenty-two of the forty-one factors that indicate a case is high risk for lethality to have been present in Keira's case, and concluded that her death and that of her father "are extremely consistent with past reviewed cases involving intimate partner violence and, in particular, past cases of murder-suicide involving a father and child.... The information is more consistent with this pattern than an accidental fall."

Almost immediately after Keira's death, her mother began to call for mandatory family violence education for judges. Over the following three years, Jennifer was indefatigable in her efforts to see this happen. She campaigned passionately for a law to require judges to receive education about intimate partner violence. Bill C-233, known as Keira's Law, was introduced as a federal private member's bill in February 2022, and was passed unanimously by both the House of Commons and the Senate in April 2023. This Bill revises the *Judges Act*, calling on the Canadian Judicial Council to create "seminars for the continuing education of judges, including seminars on matters related to sexual assault law, intimate partner violence, coercive control in intimate partner and family relationships and social context, which includes systemic racism and systemic discrimination."²⁸ The new legislation, which applies to federally appointed judges, is permissive inasmuch as it says the judicial council may—not must—create such courses, and it is silent as to whether judges must attend them.

In June 2023, Bill 102, also known as Keira's Law, passed the Ontario legislature. This law mandates gender-based violence and coercive control education for all incoming provincially appointed judges and justices of the peace.²⁹

Both of these laws are critically important steps to ensuring that all judges are properly educated about gender-based and intimate partner violence. Jennifer's work accomplished something that many previous advocacy campaigns had been unable to. It now falls to those of us who have been calling for such courses to ensure that our expertise and that of survivors is included in the content, to insist that accountability measures be built into the seminars, to work for other provinces and territories to implement similar legislation, and to see this kind of legislation directed at other professionals.

Keira has, indeed, thanks to the efforts of her mother, changed the world, as her favourite T-shirt said she would, leaving behind a powerful legacy that will serve to protect other children in a way the system did not protect her.

Meaningful change

Ending intimate partner violence means we have to think about it differently than we ever have before. As I will discuss shortly, this includes creating transformative and restorative justice models of response. First, though, I want to revisit a theme I have mentioned a few times already: we need to work with those who have caused the harm. This is difficult for some people to accept, but it is absolutely critical to our success.

Including those who cause the harm

Often those who cause harm to others have, themselves, been victimized. They may well have been abused or exposed to violence within their family when they were children. As the Mass Casualty Commission's final report says of the perpetrator of the Portapique, Nova Scotia, mass killing:

The perpetrator was raised in a violent home and became a violent man. A cursory overview of his life, and the history of violence in his family of origin which predated his birth, illustrate the

continuum of violence. The perpetrator witnessed family violence, including intimate partner violence, at a young age. He was abused by his father, who was abused by his own father (the perpetrator's grandfather), who was in turn abused by his father (the perpetrator's great-grandfather).

As an adult, the perpetrator's violent, intimidating and coercive behaviour extended ever outward: to his intimate partners; to relatives, friends, neighbours, and business associates; to his patients, and to vulnerable and marginalized people in the communities where he lived and worked; to individuals in positions of power and control over him such as police officers and colleagues participating in the review of his misconduct at the Denturist Licensing Board of Nova Scotia; and finally to perpetrating a mass casualty.... Many people are directly and indirectly affected by the violent behaviour of family members; fewer, though a significant portion of them, become violent themselves; relatively few go on to kill; and almost none of them commit mass attacks.^{[30](#)}

Stopping abuse before it happens, of course, is a multi-faceted undertaking, including identifying those who may become abusive adults early enough to provide interventions that can head them in a different direction. As Malcolm Warmerdam, the son of Nathalie Warmerdam, who was one of the victims in the 2015 triple femicide in Renfrew County, Ontario, said on the first day of the inquest, the time for an intervention with the perpetrator of those murders had been forty years earlier. By the time authorities were paying attention, it was too late.^{[31](#)}

It's not just childhood exposure to abuse that can lead someone to become abusive; circumstances later in life—such as mental health issues, including PTSD, if proper treatment is not provided—can do the same thing, as we learned from the Desmond Fatality Inquiry.

Involving those who cause harm in our work to end gender-based violence also means we need to bring an end to stereotyping abusers. As discussed in some detail in [chapter three](#), there is no social, cultural, religious, or economic demographic that is immune to intimate partner violence. Most of those who engage in intimate partner violence, as Malcolm Warmerdam reminded us at the inquest, are not monsters.

We need to include those who abuse their partners in our conversations, ask them what might have helped them, give them the respect of considering that they might want to change their behaviour, and create the space for them to do that, while also ensuring the safety of those they have harmed and requiring abusers to be accountable for what they have done.

Restorative and transformative justice

Some existing systems just aren't built to include everyone, which means sometimes our work for meaningful change will have to move beyond fixing what already exists to creating new systems. At the least, we should be building alternatives that can operate alongside the present system, so people can choose what they think best meets their needs. Specifically, I'm talking about restorative and transformative approaches to legal responses to intimate partner violence. We most often think of transformative justice in the context of criminal law, so I am going to start there, but there is also a role for dramatically new approaches to how family law issues are resolved when there has been a history of family violence.

There are many ways in which the mainstream criminal law system fails all those affected by it. The good-versus-evil, us-versus-them approach is an inappropriate way to manage many of the situations that are presented to that system, and it is especially ineffective in cases involving gender-based violence. This approach doesn't offer an opportunity for a nuanced understanding and, with its focus on individual acts, doesn't know how to respond to patterns of behaviour, which is so often what intimate partner violence looks like.

As already discussed, people who are marginalized do not enjoy the same access to justice in the criminal system as do those who are more privileged. Some victims are more believed than others, simply because of their race, class, or level of education. The same is true for people who have been charged with an offence.

Enter restorative and transformative justice models.

Restorative justice (RJ) is a process, most often seen within the mainstream criminal law system, that offers the possibility of restoring conditions that were negatively affected by an act of violence. Transformative justice (TJ), which operates outside the formal legal system, takes it a step further by creating the opportunity to heal the wounds that

caused the harm; in other words, to possibly create new conditions in which the violence will not be able to exist.

In the words of the *Roadmap for the National Action Plan on Violence Against Women and Gender-Based Violence*:

In many world views, our well-being, our health, and our safety are intrinsically tied together.... [Restorative justice] is not an approach that asks for less accountability but seeks to find accountability that takes into consideration the myriad intersectional harms that people face in their communities.... While restorative justice practices vary widely, they shift the focus from an adversarial binary of victim and perpetrator to one that acknowledges the impact of harm on individuals and communities. Restorative justice offers a collective forum elevating the voices of survivors, recognizing the impact of violence on community, and allowing the person who caused harm to understand the impact more fully. Unlike the retributive criminal justice system, the aim is restoration, rehabilitation, and the healthy reintegration of all parties back into the community.³²

Indigenous Peoples in Canada and elsewhere have engaged in restorative and transformative justice practices for hundreds of years. It's only relatively recently that mainstream legal systems have begun to think about such holistic approaches. We should learn from traditional practices and adapt them to our cultural realities rather than co-opting and appropriating them without thought for their cultural context. Something that works with people who have a shared history, common belief systems, and strong kinship ties cannot just be plopped down in another setting and expected to work. We need to learn, then build our own culturally appropriate approaches to RJ and TJ.

In the criminal legal system in Canada, the use of restorative justice began to emerge in the early 1970s. It was generally used for minor offences where there had been minimal or no physical harm to the victim. RJ can take a few different forms:

- community justice forums, where the offender, victim, and community gather together to talk about what has happened and what needs to happen to restore the situation to the state it was in before the harm was done;
- restitution, in which the offender compensates the victim for the harm done (perhaps by repairing something that has been vandalized or providing monetary compensation);
- alternative sentencing plans, in which the offender does not go to jail but spends the time receiving treatment or otherwise learning new ways of behaving;
- sentencing circles, in which the offender, victim, and community gather to decide on an appropriate consequence for the offender; and
- circles of care, in which community members work with offenders after they are released from incarceration, to support them in not reoffending.^{[33](#)}

In those early years, there was an understandable reluctance on the part of many of us who worked with survivors of gender-based violence to embrace this approach. From our perspective, neither sexual nor intimate partner violence were properly understood or taken seriously by society or legal systems. At that time, many of us were fighting for more from the criminal system: more charges, more vigorous prosecution, and more serious penalties. We believed that the only way to keep women safe was to lock up the men who harmed them.

My journey in coming to understand the essential wrongness of the criminal response to intimate partner violence is not dissimilar to that of American law professor Leigh Goodmark:

At twenty-five, when I began representing victims of violence, I firmly believed that everyone who perpetrated violence was a monster and that swift and harsh intervention by the criminal legal system was essential to stop that violence. My clients quickly taught me to look at intimate partner violence in more nuanced ways. The more I represented people in the legal system, the more I doubted how effective those interventions were.... The criminal legal system was not deterring or decreasing intimate partner violence and that

criminalization had serious negative consequences for the people it was meant to benefit.^{[34](#)}

For at least forty years, in most western cultures, criminal law has been seen as the go-to social response to intimate partner violence and other forms of gender-based violence. It's the serious law, the place where appropriate penalties can be meted out to those who are proven, beyond a reasonable doubt, to have done wrong. I was a voice for stronger criminal laws and more aggressive enforcement of them. But like Goodmark, increasingly I saw the ways those laws failed and, even worse, made life more difficult for those who had been subjected to intimate partner violence, while also not helping the abuser take accountability for his actions and learn new ways of behaving. While I still call for police and criminal courts to take gender-based violence seriously and to treat survivors with respect and without judgment, I no longer see that system as particularly relevant or helpful.

Goodmark's experience is in the United States, where criminal law holds an even more vaunted position than it does in Canada, but her analysis holds for us, too:

Criminalization was meant to increase awareness of gender-based violence and decrease that violence by changing community norms about its acceptability. But those efforts have also led to increased rates of arrest, prosecution, conviction and incarceration of those who the changes were meant to protect—victims of violence.^{[35](#)}

The appropriateness of RJ and TJ remains a matter of some debate within feminist circles, but there has been a significant shift towards support for these models. The violence against women movement has seen, again and again, that mainstream criminal law and its application through the court process does not assist victims and survivors; that, in fact, it often causes further harm and trauma to them. Importantly, we see the utter failure of the existing legal systems when the people involved are Indigenous, Black, people of colour, poor, newcomers to Canada, criminalized, trans or non-binary, disabled people, and more. Both

victims/survivors and those accused of harming them are damaged even more significantly in these situations.

Criminal law is an offender-focused process that does not ensure that the voices and stories of survivors are heard, let alone listened to. In fact, it silences those voices in many ways, starting when the survivor reports or tries to report to the police what has been done to her, and continuing throughout the court process. Indeed, publication bans, particularly in sexual assault cases, ensure the voices of survivors are silenced forever.

Our many concerns with the mainstream criminal system are proven by low reporting rates of both sexual and intimate partner violence.

When we step back to look at the bigger picture of prevention, we see how offenders are also not receiving what they need, if the goal is to reduce the likelihood that they will continue to engage in intimate partner violence. Punishment does little to help people heal from the harms that have been visited upon them or to allow them to learn new non-violent behaviours. We see rates of intimate partner violence remaining constant or rising, and the severity of the violence increasing, which is a pretty good indicator that our responses to it are not working.

Further to my experiences when I practised law, my thinking on this subject took another jump forward when, in 2016/17, through the Barbra Schlifer Commemorative Clinic in Toronto, I provided free independent legal advice to survivors of sexual violence, as part of a pilot project (now a permanent program) run by the Ontario government.³⁶ Over that period of time, I provided advice to about a hundred women. Sometimes I provided advice to women who had already reported the sexual assault to the police or whose cases were proceeding through court, but more often I met with women who hadn't yet decided what to do. I gave advice to women who had been sexually assaulted a few days before our appointment, weeks or months before, and even years and decades in the past. Often they said that the people they had turned to for support—friends, family members, work colleagues—told them they should go to the police.

I always began by asking them why they had made an appointment to talk to me, and then I'd say: "I can't make what has been done to you go away, and nor can the criminal law. The important thing is for you to know

what you want to help you move forward with your life. What are you looking for?”

The vast majority of the women I met with—and by that I mean more than 90 percent—wanted two things, neither of which the criminal system offers. They wanted the person who had sexually assaulted them to know they had done something wrong and to apologize for it. And they wanted to make sure that person never did anything similar to anyone else.

My assumption when I’d started this work had been that I would explain how the criminal system works and what the fancy legal terms mean, tell women about the people they would encounter and what they do, make sure they got connected with counselling and other supports if they wanted them—in other words, I thought I would be helping women function as well as possible while they engaged with the criminal system. This is what some of the women I met with wanted, but far more often I found myself supporting clients in their decision not to engage with that system and wishing there were a better one to which I could direct them.

Robin Parker is a former Crown attorney in Toronto who is now a criminal defence lawyer. When she was sexually assaulted in 2018, she was initially reluctant to report to the police; no doubt in part because she was well aware of how hard a criminal trial is on the sexual assault survivor. I don’t find this surprising. Those of us who work in the field of gender-based violence have long seen the problems with the responses to sexual violence that are offered by the criminal law. Even for those less intimately involved in this work, the trial of CBC broadcaster Jian Ghomeshi in 2016 provided ample evidence of the problems with the criminal system, as have headline-generating criminal trials in other high-profile cases since.

She did, however, decide to report the sexual assault, knowing she did not want to go through a traditional criminal process. What alternatives might be available to her? In Ontario, Crown policy forbids sexual offences from being resolved through restorative justice, because they are seen as too serious and out of concern for proper deterrence and protection of survivors. Nonetheless, Robin was able to convince the Crown in her case that RJ was appropriate:

It’s so important to offer restorative justice processes because it’s the only way that you can bring people together where the complainant

has an opportunity to actually speak directly to the person who has harmed her. He listens and responds by saying that he heard what she had to say. That doesn't happen in the justice system. People can be convicted and never have to face what they did.³⁷

Robin says the process was “transformative” for her and that she does not believe her assailant will reoffend because of the impact the RJ process had on him.

Had RJ or TJ been an option in 1985, I might have considered reporting the sexual assault I was subjected to when I was a candidate in the provincial election that year. In order to become better known in the world of organized labour, I attended a labour convention as the guest of a union leader in my riding. Without any thought that I needed to be concerned, I headed to this man's hotel room to meet him so we could go to the convention dinner together. We had known each other for years; I knew his wife and he knew my partner. He was a “leftie.”

Within seconds of being in his room, I realized I was in trouble. He took my coat, managing to brush my breast in doing so. He offered me a drink and wouldn't take no for an answer. He gave me a union pin, but when I reached out for it, he grabbed me around my back and then undid my blouse and put his hand inside it so he could pin it on. He kept his arm around me as he refastened my buttons, even though I was squirming as hard as I could. I suggested we head down to the dinner, but he insisted on having another drink first, during which he kept touching my face, back, and breasts. I felt like there was nowhere for me to go to get away from him.

When he was finally ready to leave, I tried to pick up my coat to take with me, but he wouldn't let me. His unwanted touching continued as we walked down the hotel corridor and during our elevator ride.

Once we were mingling with other conference attendees, he had an “excuse” to touch me, as he guided me around the room introducing me to people. While we were seated for dinner, his hands were all over my legs, while I tried to subtly manoeuvre my way out of his reach. I insisted on an early departure, but had to return for my coat to his room, where, finally, my sense of self-preservation kicked in and I insisted he bring it to me

while I waited in the hall. Once I had it in my hands, I ran as fast as I could to the elevator, looking over my shoulder the whole way lest he decide to follow me.

Here's what I was thinking while all of that was happening:

I didn't want to embarrass him or myself by making a scene.

I didn't want to interfere with the support of labour for my candidacy in the election.

I needed to get my coat back.

And perhaps my mother had been right after all: she had told me when I was a teenager that I should never go in a hotel room with a man who was not my husband.

I was so embarrassed by what had happened, when the shame really should all have belonged to him, that I didn't tell anyone about it for some time. Had I reported the incident to the police, I can well imagine what I might have heard: "Why didn't you lock yourself in the bathroom in his hotel room?" "Why didn't you insist on taking your coat with you?" "Why didn't you tell someone once you joined those at the conference?" "Why didn't you just abandon your coat and leave?" Indeed, I asked myself all those questions later that night and for weeks and months afterward.

I don't think the terror I felt throughout that evening would have been acknowledged or my decisions validated as having been the best ones I could have made in the circumstances. It's unlikely any charges would have been laid. The man who assaulted me would have been able to tell a good story that made me look like a crazy person. I would not have felt restored, and he would not have had to take any responsibility for what he had done.

It's been almost forty years since that happened. As I look back on those events, they all seem a bit banal to me in one way, but as I typed this story, my heart rate escalated and my fingers trembled. This is one of the many truths about men's violence against women: it's not all dramatic, it's not all the worst it could be, but it is still awful and it is still wrong.

The criminal law is not designed—and perhaps can't be designed—to respond appropriately to the kind of violence I faced that night. That's one of the reasons we need RJ and TJ.

My experience could have led to a process that was transformative for everyone. I could have felt heard and believed, rather than silencing myself because I assumed I would not be. I could have felt safe. I could have

healed from what had happened to me rather than squishing it into a little ball and tucking it away to fester.

The person who harmed me could have heard my story, not parsed out as responses to questions asked by a Crown attorney, but in my own words. Not worried about the possibility of a criminal conviction, he could have reflected and, perhaps, come to understand the wrong in what he had done. We could have talked about what he needed to do to right that wrong. Perhaps, if I want to be really hopeful, the conversation could have gone beyond the two of us to include the labour community and others so bigger changes could have happened.

But restorative justice wasn't on the table in 1985, so I licked my wounds and carried on, making sure I was never alone with him for the many years in which our paths continued to cross. (And I lost the election.)

Coercive control is not unlike my 1985 experience with sexual violence. It's a pattern of behaviours that builds over time. Each individual action on its own might seem insignificant, but the impact is cumulative, leaving the victim feeling trapped and, often, more than a little bit crazy. It's hard for outsiders to see or understand, because the dynamic is unique to that victim and abuser and there are seldom physical injuries. If Canada criminalizes coercive control, as seemed likely at the time of writing, we'll have an opportunity to see whether our criminal legal system has the flexibility to understand behaviour that is not a single incident as a crime. We'll also see whether those victimized by coercive control report it to police and feel empowered and protected through the criminal process and whether punishing those who engage in this behaviour results in meaningful reductions in its frequency. I fear that, instead, we'll be looking at the not-so-unintended negative consequences of simply turning this kind of intimate partner violence over to the criminal law.

Instead, this could be a perfect opportunity to try a restorative or transformative justice approach, creating opportunities for meaningful healing and accountability and a way forward that is not about punishment.

Whether there is a role for RJ or TJ in family court cases involving intimate partner violence has not been explored to the extent that its use in criminal cases has been. Some might argue that mediation and other forms

of alternative dispute resolution are a kind of restorative justice. These approaches do offer people the opportunity to craft their own solutions to their family law disputes, but they don't do much to disrupt existing power imbalances. ADR is not survivor-driven in the way that criminal RJ models must be.

Given that people who have children together will possibly be engaging with one another for many years into the future, during which time the safety of both the survivor and the children often remains an ongoing issue, we should do some serious thinking about whether there is a place for a transformative justice model in family court and, if so, what that might look like. For example, what if extended family members were brought into discussions about arrangements for the children or safety concerns? Might they have valuable insights and suggestions to offer? What if there were a way for the abuser to acknowledge the harm he has caused and ask for help without fear that he will then face criminal consequences? What if children were able to talk with both of their parents about the impact the family violence has had on them and what they need to feel safe in the future, without feeling they are being asked to pick one parent over the other? What if there were a way for the survivor to explain how the abuser's treatment of her has left her afraid and distrustful without worrying that she will be accused of trying to alienate the children?

To imagine substantial changes like adding transformative justice to the responses available to a system as entrenched and familiar as the criminal law, it's helpful to have some inspiration. These two stories—one about a proposed new model that comes from research conducted by a survivor-led organization and the other about a decision by a visionary and courageous judge—give me hope that we can make those changes.

WomenatthecentrE, an Ontario organization created by survivors for survivors, works to place the voices of women-identified survivors of gendered violence at the centre of decision-making, policy change, and personal advocacy.³⁸ They recently completed work on a project to create a new justice framework that would be survivor-led, accountability-driven, and healing-centred. While their focus is on TJ in sexual assault cases, the principles could work in the family law context as well.

WomenatthecentrE's report *Declarations of Truth* sets out an inspiring and comprehensive vision for a new justice model, based on what they heard from sexual assault survivors, both those who had and had not used the criminal system:

Our own experiences have shown us how survivors of sexual assaults are discounted, not believed and often made to feel as though they are the ones on trial, leading to other survivors' understandable reluctance to report to the police....

We view justice as embodying three fundamental principles:

- of aggressor accountability, remorse and change in attitude and behaviour, having recognised the harm caused by their actions;
- of the survivors feeling heard, believed and validated;
- of societal acknowledgement of the role it plays in navigating and negotiating the above....

For us, Transformative Justice had more components matching the elements survivors had shared with us that they were looking for; including the flexibility to choose whether or not to meet with the aggressor.... We have therefore developed a fairly comprehensive framework for this alternative model, including incorporating what we view as foundational principles of compassion and kindness for both survivors and aggressors, removal of shame for both parties, the composition of the teams who will be supporting the survivor and the aggressor, and a commitment to healing the harm and transforming the lives.^{[39](#)}

Anyone who wants to think about restorative justice should also read a 2020 British Columbia sexual assault decision in which the judge makes clear that a finding of not guilty does not mean nothing bad happened or that the accused was not responsible, just that the case against the accused was not proven beyond a reasonable doubt: "Please do not mistake the concept of an acquittal with the concept of innocence."^{[40](#)}

Justice A. Wolf, a member of the Kwikwasut'inuxw Haxwa'mis First Nation, addresses the issue of violence against Indigenous girls and women in his deeply thoughtful and respectful decision: "Indigenous females have a greater chance of being victims to spousal violence. They have an

increased chance of being sexually abused while in care, and sexually assaulted when out of care. If you are a female teenager in jail, chances are that you are an Indigenous girl.”

His decision is also a call to action:

When we talk about the “criminal law” we are talking about the idea that we as society are bound by certain laws that restrict our behaviour. When we break these laws, we are breaking our promise to the community to abide by the same rules. And when we break the law, we are hurting and injuring not only the individual victim, but the whole community.

While I am duty-bound to come to the legal conclusion I have, you as a community have other options.

This case is illustrative to me that there is intergenerational trauma caused by the residential school system that has flowed from our grandmothers down to our grandchildren.

In this case, somebody from the [omitted for publication] First Nation harmed this young girl from the [omitted for publication] First Nation. A sense of harmony in our community has been lost and needs to be restored.... I hope there is an opportunity to pursue restorative justice approaches to healing the communities involved....

I would welcome the opportunity to be part of any community driven restorative justice approach that might be undertaken. I have been part of healing events in other places. These healing events can be transformative....

We need to do something, we need to act.

If we do not act now, when will these horrible crimes against our young girls and women ever end?

Take action

I hope that by the time you have read this far, you will feel inspired to join the work of improving systemic responses to and eradicating gender-based violence, because we need all of us to be involved if we are to make meaningful change.

I've been an advocate for system-level change for a long time, and I've collaborated with hundreds of others who are equally committed in their work. We want to see concrete changes that will improve responses to and eliminate gender-based violence. Sometimes—often, actually—it's hard to see the impact of our work, which can be discouraging. It's easy to lose hope, which can lead to giving up, and that's not how we want this story to end.

It's important for anyone working to change systems that have been in place for centuries to remember that those changes are not going to happen overnight. Those systems were created to meet the needs and solidify the power of those who built them, and they've done a good job of that, with the result that those in power now are well served by the systems put in place by their predecessors and have little interest in changing the status quo. The political and public climate is often one in which there is not much openness to the kinds of changes many of us would like to see, which just means we have to be ready to stick with our work for a long time.

Though we may often not see the dramatic change we have worked for, that does not mean our efforts were in vain. On our way to achieving our big goals, we need to keep our eye on the smaller victories: raising public awareness about gender-based and intimate partner violence, achieving increased media attention, building strong relationships with others doing the work, ensuring survivors' voices are heard. We also need to make sure we stay open to learning more and, sometimes, to changing our position as we collaborate with others who bring different perspectives to the table.

Sometimes it's enough just to stop something worse from happening. Disrupting the discourse of fathers' rights groups is an example of this. Over the more than twenty years that those organizations have lobbied for family laws that would not protect women and children, advocacy by the women's movement has managed to hold the line. We have not moved as far ahead as we would have liked, but we have stopped something far worse from happening.

Other times, advocacy we do shows up in changes that happen much later. All the work that feminists did in the late 1990s to oppose shared parenting presumptions in family law and to encourage family laws that explicitly addressed family violence seemed to disappear into the ether.

Then, twenty years later, we saw many of our ideas contained in Bill C-78, *An Act to Amend the Divorce Act*.

We need to learn how to define success so we can appreciate the small wins as they come, while still keeping an eye on the ultimate goal of ending intimate partner violence. We need to set realistic goals and keep our expectations modest to avoid constant disappointment. Then we need to figure out where we fit and how to start our work to end intimate partner violence. That can feel overwhelming, so here are a few thoughts to help you get started.

Humility and an openness to learning are critical if we are to be effective advocates for change. I've been embarrassed more often than I like to admit by the mistakes I have made in my work. Often these mistakes were rooted in assumptions I'd made based on my ignorance of a situation. Each time, I have tried to learn from my errors, to limit my reliance on assumptions, and to remember that what I don't know is still more than what I do know.

In the late 1990s, I was in Guatemala with others from the women's shelter where I was a member of the board of directors. We had been invited by aid organizations to meet with women's cooperatives in rural parts of the country to talk about violence against women. We came with lots of passion and, we thought, some useful expertise to offer. But it was quickly apparent that we didn't know very much of use to these remarkable women, who had lived through one of the most brutal and long-standing of wars against their culture. In fact, we were the ones who needed to learn.

One experience is seared into my memory. We were in a very small village, talking (through two steps of interpretation: first from K'iche' to Spanish and then from Spanish to English) with a women's weaving cooperative. We were sitting on blankets on the dirt floor in the small home of one of the women. Children and chickens wandered in and out as we talked. The women spoke of their dream of having a loom large enough so they could weave tapestries, as opposed to the small pieces they were currently producing. They could sell these larger pieces for more money, money they were accumulating to pay for a school for their children.

One of us asked how much such a loom would cost. After some discussion among the women, and some rough currency conversion calculations from the quetzal to American dollars to Canadian dollars, we were told it would cost a few hundred dollars. We then huddled to discuss whether we thought we could come up with this kind of money and decided that we could. With great happiness and, truth be told, feeling pretty good about ourselves, we told the women we could pay for the loom.

This led to some animated conversation among the women, including quite a bit of laughter that we knew was directed at us. Eventually the interpreters told us that, before a larger loom could be of any use, the women needed a building in which to put it. They didn't have enough money for that, and nor did we.

Lesson learned: always zoom out before zooming in. We need to bring the same approach to solving the problem of intimate partner violence: first, step back from the specific thing we want to fix to take a look at the broad causes of gender-based violence; then, use that analysis to frame our ideas for fixing the specific problem we are working on. Otherwise, we'll be forever applying band-aids to individual harms rather than eliminating the sources and causes of those harms.

This story shouldn't make you think that small and individual actions are not useful. They are. Indeed, such actions often build the foundation that holds up systemic work. In this instance, we were not able to provide the money needed for a building to house the loom, but we were able to connect the women with charitable foundations that provide that kind of funding, assist them with writing grant proposals, and more generally, share their story with other potential donors once we returned to Canada. We just needed to understand the big picture before we started offering ideas.

There's a lot that we can do individually, and that individual work can grow into more collaborative efforts involving other people. You don't have to be in a position of power, an expert on gender-based violence, or a lawyer to offer something to make systems that respond to intimate partner violence work better. You need to know there is something wrong and have the passion to make it better.

You can start by deciding what you feel the most compelled to change. Perhaps you work with children and are concerned about the impact of intimate partner violence on them. Maybe you are a survivor and want to see changes to a particular system that didn't work well for you. Or you work in law and would like to see students exposed to education about gender-based and intimate partner violence in law school. You might work with those who cause harm and see the need for changes to the systems you work in.

It really doesn't matter where your passion lies, because change is needed everywhere. There's room for everyone in this work, and there are lots of ways we can each do it. On your own, you can:

- pay attention to the news about gender-based violence so you know what is going on in your community as well as provincially/territorially, nationally, and globally;
- educate yourself about the issues. If you have some friends who share your interest in getting involved, start a gender-based violence reading group so you can talk about what you're learning;
- write a letter to your city councillor, mayor, or provincial or federal representatives to share your concerns about intimate partner violence and offer some ideas for change;
- write a letter to the editor of your newspaper about a local issue related to intimate partner violence;
- call the women's shelter or sexual assault centre in your community to find out how you can best support them;
- as you get more confident, find ways to challenge misogyny when you see or hear it. Start with people you already know and trust: family members, friends, and co-workers;
- be careful with your language. Refer back to the section on evolving language in [chapter two](#) of this book for some tips on how and how not to talk about gender-based violence; and
- learn what you need to know so you can support a neighbour, friend, or family member who is living with intimate partner violence.⁴¹

You may find that working on your own is what is best for you, and that's just fine. If, however, you'd like to work with others, there is a lot to

be said for that too.

Because working to improve the systems that respond to gender-based violence is what I do every day, I have found that working collaboratively allows me to do the best work I can. There's no doubt it's often easier, in the moment, to work alone. You don't have to take anyone else's ideas into account, talk through disagreements, or trust in someone else to do their part of the work, all of which can make it more complicated and time consuming to get things done. But my experience has been that when I work with others—whether it is writing an op-ed, analyzing a legal issue, preparing a brief to present to the government, organizing a conference, or creating a resource for survivors—the result has been better than it would have been if I had done it alone.

Working collaboratively can be harder and can take more time than working alone, because it involves listening to other people's ideas. It requires a willingness and an ability to bring an open mind to the table and to recognize that what you are thinking is not likely to be the only idea worth considering. Sometimes—perhaps, often—it involves disagreement and arguments. Coming to a final decision or position can be really challenging and almost always involves compromise. It can be frustrating to work with others if you think they are not as committed to the process as you are.

Occasionally, there will be differences that are insurmountable, but if everyone is committed to a collective and respectful process, this is unlikely. And the end result is bigger and better than the sum total of everyone's individual efforts. When we work collaboratively, our impact can be bigger. We can:

- create a website, webpage, or listserv to engage others in the issue we are working on;
- produce research papers, media releases, and op-eds to support our advocacy efforts; and
- have enough clout to get meetings with cabinet ministers and others in key decision-making roles.

Even working collaboratively, there's lots of space for each person's individual skills to shine. If you enjoy thinking through complex topics, you

can do the first point-form summary of the key issues. If reading dense legalese and translating it into language that everyone can understand makes you happy, you will be in big demand. If you like to write, offer to do the first draft of the op-ed or media release. If your strength is in editing and layout there will be work for you.

Maybe you are confident speaking in groups, in which case you might find yourself behind the microphone or talking to the media. If your skills are better suited to using social media or organizing a virtual campaign, you will be popular. Good organizers, people who are willing to sit on the phone or send emails, someone who can track all of the work being done, a communications expert: all of these are skills that are needed to do effective advocacy work.

You don't have to create a new group for your activism, but you may want to bring a number of existing groups together as a coalition to work on a particular issue. If you do this, make sure you include a broad range of perspectives and not just people who think like you. This doesn't mean you need to—or should—include groups whose perspectives or values are in conflict with yours, but you want people who will look at the issue through different lenses so all of you end up with a more holistic analysis.

For example, if you are working on a potential change to the criminal laws related to intimate partner violence, your table should include people from a wide range of demographics, because criminal law affects people very differently depending on their social location. If, say, only white, middle-class, well-educated people are thinking with you about the possible impacts of the change to the law, you will miss the important perspectives of people who have faced racism, classism, and other discrimination when they have dealt with the police and the criminal law.

Work to change the child protection response to intimate partner violence needs to include people who have had bad experiences with child protection authorities, those working for child protection agencies who know their organizations could do better, women's and children's advocates, and no doubt others as well. Always front of mind should be ensuring that survivors are represented in your collaboration. This means putting supports such as financial compensation in place, ensuring the spaces we work in feel and are safe, and creating the time for survivors to

tell their stories so that accessibility is meaningful and not just performative.

It's also a good idea to make sure you have a diverse array of skills at your collaboration table, so you don't wind up with eight people who are good at public speaking and no one who can write well or balance a budget.

We've learned a lot of lessons about systemic change work over the past few decades, lessons that we can apply to the work we do in the future. Our ultimate goal is to end gender-based violence. Even if we are working on an issue related to addressing and responding to gender-based violence after it has happened, we need to always look at that change in the bigger context of ending the violence.

The butterfly effect is real. A small change made in one system will have an impact on another, and as advocates for change, we need to consider that before leaping into a course of action. For example, if we are thinking about changing a criminal law, we need to think about more than whether it will be effective in the criminal context; we have to also examine what impact it might have on a survivor's family law, immigration, or child protection situation.

Unanticipated negative consequences are also real, although, at this stage, they should no longer be unanticipated. The best example of this, in my experience, is mandatory charging. These policies were introduced with very good intentions to address a serious problem in the way police were responding to domestic violence calls. Could we, at the time, have anticipated the negative consequences that followed? I don't know the answer to that question, but we know a lot more now than we did then, and we need to use that knowledge to anticipate as many as we can of the consequences—good and bad—that could flow from systemic changes we are considering.

We need to look at who will be affected by the change and how the change will affect them. For example, will the change require access to cell service or public transportation to be effective? Will information about the change be provided in multiple languages and formats? The biggest lesson I have learned from my work with and since the CKW Inquest is about the power of working from the grassroots up.

Staying focused on ending violence, the butterfly effect, possible negative consequences, differential impact, working from the grassroots up:

all of these bring us back to the idea of working collaboratively. With people bringing a range of perspectives and lived realities to the work, our analysis will be broader and more inclusive, and we'll move closer and closer to the ultimate goal of eradicating gender-based violence.

Epilogue

Writing this book has given me an opportunity to reflect on the work I have done over the past three decades and the ways it has changed who I am. This was not my intention—I thought I would write a factual book about intimate partner violence, but as I wrote, I realized that my experiences in the work were an inextricable part of the work itself and that I couldn't write about one without including the other. The voices of women whose stories I had been part of—even for a short time—kept finding their way onto the pages I was writing, as did the many lessons I have learned from them.

I don't know what happened to Susana and her children after her family court case was over. By now, her kids would be adults themselves, perhaps in relationships, perhaps with children of their own. I hope that she was able to move on to a life free from abuse, with or without another partner, and to raise her children to be adults who have violence-free lives. I also hope her partner learned how to be loving and gentle to anyone else with whom he became involved.

When I practised law, most of the women I represented were at an extremely vulnerable point in their lives. They needed me desperately, and for some, I became their hero, at least in that moment. However, as it should be, once their immediate need for me was over, they moved on and left me behind.

There have been rare exceptions: a few clients who sent me holiday cards with their children smiling out at me, until I changed addresses one too many times; the very occasional client who has tracked me down through my website to tell me how her life has gone. But for the most part, as involved in the intimate and private details of their messy lives as I was at one time, I know nothing about them now.

Their ghosts visit me some nights. The clients who I was sure would be killed by their partners; the kids who had already been so damaged by exposure to their father's abuse of their mother; the women who, despite their joy at getting away from an abusive partner, found themselves in another relationship with an abuser, perhaps with another child or two, wondering where they'd disappeared in the story of their own life.

A character in Jennifer Clement's powerful novel *Gun Love* could have been speaking for many of my clients as she reflected on her life: "If it hadn't been for my life, I know I would have been somebody, Corazón said. But I can't get away from my life because it's my life."¹

I am not the same person I was when Susana appeared in my office all those decades ago. Practically speaking, I now know a lot about intimate partner violence, how legal systems do and don't work, and what changes we need to make. I've learned how to give a punchy media interview, how to write a parliamentary brief, how to make an effective appearance before a government committee, how to respond to misogynist attacks. I think I have become a good teacher both in person and online.

The work has changed who I am in some fundamental ways. It has made me a mother who imagines the possibility of abuse in my children's intimate relationships; in fact, I watch for it like a hawk. I don't envy my children or their partners, some days.

It has made me, often, a difficult partner in my own relationship. Sometimes, it's hard to be civil to even a good man when so much of my time is occupied with trying to fix the mess created by men who behave badly. Other times, those ghosts overwhelm me, and I descend into a space I don't want anyone I care about—including my partner—to have to share. While I have a great sense of humour, it's MIA some days, which can make life for him less than easy. My endless drive to work more, do more, accomplish more in the work to end violence against women must be hard to live with. My work takes me away from home often, for days or weeks at a time, during which periods my partner and I have to get creative to find ways to stay connected (he's not a fan of texting!), especially when we are in different time zones. I am fortunate to have him by my side.

The impact of my work sometimes makes me an unwelcome guest in social settings. That might be because I don't let a sexist comment or joke drift by, or because people are uncomfortable with what I do or what they

think it says about me. For the record, despite the accusations of some fathers' rights groups, I don't hate men and I don't think all men are abusive. But people sometimes make those assumptions about me.

At my core, I've always been a happy, optimistic person, and I think I still am, but sadness has also become a permanent part of who I am. Some of that sadness is what happens to any thinking, caring person living in a world filled with atrocious wrongs, but some of it comes directly from the work I have done.

I need a lot of control over my environment to feel calm, and I blame some of that on the years of hearing the stories of survivors whose abusers made their lives ones of constant chaos. This can make me an irritating person to live or be friends with. I also attribute my exaggerated startle reflex and my tendency to create worst-case scenarios largely to my work. Both of these traits create challenges in my personal life, and I'd be happy to say goodbye to them.

I can't impose all of the stories I hear on my family and friends. Aside from the confidentiality issues, if a story is causing me inordinate grief or despair, why would I want to infect someone else with it? Like anyone doing this work, I know stories that no one should have to know, just as no one should have to live those stories. As a result, sometimes I am lonely.

I sometimes take on work that exceeds my knowledge or skill set. Why? Because I know the work has to be done and I'm willing to give it my best effort. While I may project self-confidence in public, I am actually afraid much of the time: that I won't get it right, that I will make a mistake that embarrasses me and jeopardizes the work. I've been pretty fortunate not to have screwed anything up beyond repair, but I still have butterflies in my stomach a lot of the time.

As I said in the preface, I developed what is often labelled vicarious trauma while I was a practising lawyer. I still live with it. Writing this book made it worse for a while. This means, among other things, that my emotions—never far from the surface—are in a constant battle, one with the other: rage, grief, despair, hope. Some days, I'm paralyzed by despair and grief, but more often—so far—hope and rage win out and keep me going.

I like to think that I am wiser because of doing this work. I don't mean just that I know more than I used to—we all know more now than we used to. I mean that I have the ability to analyze and integrate that knowledge, as

well as (mostly) good judgment about how to apply what I know and the humility to know and admit what I don't know.

Over the decades, I've found or devised lots of different strategies to manage the impact of the work, each of which has been helpful in different ways.

Therapy, which I first used to help me manage vicarious trauma, has provided me with tools that I use all the time to monitor the toll of the work and to manage its negative effects.

During a very brief period of my life I took up running and entered a few short road races, in which, with one exception, I placed last. The exception was a race in which I came second to last, managing to puff my way past a woman who was about seven or eight months pregnant and pushing a toddler in a stroller as we came up the final hill before the finish line. Despite my lack of podium glory, regular exercise is an important part of my trauma management strategy. Reiki helps me deal with the negative energy that is inevitable in this work.

I work hard, but I also know how to not work. There's nothing I like more than taking a day to prepare a meal and serving it to a table crowded with friends and family, a table at which we can satisfy our hunger for food, companionship, and stimulating conversation.

And then there is my partner. And my kids and grandkids. My friends. My siblings. And movies and travel. And ... In other words, I have a life beyond my work as well as strategies for helping me cope with the hard parts of the work.

At the end of it all, I absolutely love this work that I have had the honour and privilege to be able to do. My work is almost always interesting and stimulating. It challenges my brain. It allows me to think hard. I am constantly learning and growing. I get to work with the most incredible community of survivors, activists, and advocates. I get to meet interesting people.

While I am often impatient with the slowness of change, I have also been part of making important changes, changes that have made the lives of women and children better, even if we haven't yet had much success in ending the violence itself. I've been able to see women leave relationships in which they were subjected to abuse, learn who they are, and become independent.

Some years ago, I told myself I would retire by the time I turned seventy. That day has recently come and gone. I'm almost ready to step back, to become a cheerleader to work being led by younger women who will bring a new vision to it. But not quite yet. I still have a few things to say and a few issues to work on. I am still enthralled by what I do.

I've been well recognized for my work, and, while I didn't set out to accumulate awards or accolades, it's wonderful to feel appreciated. More than awards, though, when my energy flags, as it does from time to time, I have only to remember the voices of women whose lives I have affected. Here are just a few.

The sexual assault survivor who emailed me to say: "As someone who has struggled and feared the judicial system, I felt empowered hearing you promote safe court spaces for sexual assault victims."

A former client who wrote to say: "Thank you for giving me hope and not to give up. Your strength and resilience is giving me the same."

A woman who approached me after I spoke at a public event, took both my hands in hers, and looked me straight in the eye as she said: "Twenty years ago, I called you when I was in an abusive relationship. What you said to me then changed my life. Thank you."

Not that I would have imagined it when I opened my law office and Susana came running through the door, I have been one small part of a global movement to end violence against women. What could be a better way to have spent thirty years of my life?

Acknowledgements

In the summer of 2022, Jamie Swift, a Kingston writer, activist, and friend, as well as a founding board member of the publisher Between the Lines, encouraged me to submit a book proposal to BTL about the work I've done for much of my career. He suggested I use my recent experience as a witness and observer at the CKW Inquest as an anchor. While writing has been a significant part of my work, and I can pump out a mean parliamentary brief, blog post, or op-ed, this was my first foray into book writing, even though I've long thought about it as a possibility. I am truly indebted to far more people than I am able to list here for their help in making this book a reality, and I'm trusting that these people know who they are.

But I would also like to offer a special thank you to Jamie and to the Between the Lines team, which has been completely supportive and encouraging throughout this process. In particular, I want to thank my editor, Tilman Lewis, for his sensitive and skilled work. Tilman was generous in his positive feedback and understood the fabric of what I was writing about. As a result of his careful editing, this book just got better and better.

Throughout my career, I have been inspired by the many women I've had the honour of representing, beginning with my first client, Susana. I've worked with and learned from scores of front-line workers, lawyers, academics, judges, journalists, and politicians. I've benefited from the wisdom of fantastic colleagues, many of whom have become friends. I hope that all of them understand how much they've influenced and guided me.

In particular, I want to acknowledge Carol Barkwell—first a colleague, and then a friend. When Carol, the executive director of Luke's Place, invited me to speak at an event in Oshawa in 2006, we both thought it

would be a one-time encounter. But before I knew it, I'd agreed to help write a funding proposal that potentially included a modest project for me. Thus began an intensely collaborative and creative working relationship that has lasted for almost twenty years so far. Carol's vision allowed me to do what I consider to be the most important work of my career. Not surprisingly, we've had some adventures along the way and have developed a deep friendship that I cherish.

The people in my private life, both family and friends, have always understood and respected the passion I have for the work I do, even when it makes me cranky, discouraged, or unavailable. I appreciate that more profoundly than I can say.

Finally, thank you to my wonderful partner of more than forty years, Peter Dundas, who taught me to have the courage to believe in myself; to recognize that the world could be made better, and to see that I could play a part in making that happen.

Notes

Preface

¹ In June 2024, I received an honorary doctorate of laws from the Law Society of Ontario. “Law Society Presents Honorary LLD to Pamela Cross,” *Law Society of Ontario Gazette*, June 27, 2024, lso.ca.

Chapter One: Inquests and Inquiries

- 1 While not categorized as a domestic violence inquest, an inquest was held in 1997 into the deaths of two children who were shot by their father in front of his third child, whom he did not shoot. The father was engaged in a custody battle with his wife, who had left him because of his abuse of her and the children. The inquest into the 2005 deaths of Lori Dupont, who was killed by her ex-boyfriend, who then killed himself, focused on workplace issues, because Dupont and the man who killed her worked together in a hospital, so it is not always considered a domestic violence inquest. Similarly, the 2010 shootings of OPP officer Pham Duy Vu and the perpetrator of intimate partner violence fall outside a narrow understanding of domestic violence homicide. The domestic violence victim was not one of those who died, but the fatal encounter between the two men was the result of the perpetrator's ongoing abuse of his wife of forty-eight years and followed his threats to harm her or her sister if she did not return to him.
- 2 Government of Ontario, *Domestic Violence Death Review Committee 2018 Annual Report*, "Domestic Violence Death Review Committee Aims and Objectives," archived, [ontario.ca](https://www.ontario.ca).
- 3 These numbers appear in a forthcoming report from Ontario's Domestic Violence Death Review Committee which has not yet been publicly released.
- 4 For a comprehensive review of all gender-based and intimate partner violence recommendations made in Canada in the past thirty years, see the Environmental Scan of Prior Recommendations commissioned by the Nova Scotia Mass Casualty Commission: masscasualtycommission.ca.
- 5 See: Mass Casualty Commission, "About," masscasualtycommission.ca.
- 6 Mass Casualty Commission, "Roundtables: IPV, GBV and Family Violence: Personal and Community Responses," masscasualtycommission.ca.
- 7 Mass Casualty Commission, "Final Report," *Turning the Tide Together*, 7 vol. plus Executive Summary, Appendices (2023), masscasualtycommission.ca.
- 8 *Report of the Inquiry into the Deaths of the Desmond Family*, vol. 1 (2024), 8, desmondinquiry.ca.
- 9 Canadian Domestic Homicide Prevention Initiative, "DVDRC Committees," cdhpi.ca.
- 10 You can find the complete community consultation report, "We Remember: A Report from the Community for the Inquest into the Murders of Carol Culleton, Anastasia Kuzyk and Nathalie Warmerdam," on the Luke's Place website at: lukesplace.ca.
- 11 Kirsten and I worked closely together both during and after the inquest, and have had many conversations about inquests, some of which I made note of at the time.
- 12 Dr. Peter Jaffe, founding member of the DVDRC, was commissioned to prepare a case review of the triple femicide, in which he noted that the perpetrator, whose history of domestic violence was many decades long, presented thirty of the forty-one factors the DVDRC has identified as marking a case as being a high risk for homicide. Dr. Katreena Scott, an expert in programming for abusers, noted that the current approach to programs for those who engage in intimate partner violence fails to achieve its goal because of its one-size-fits-all approach.
- 13 Recommendations were also directed to the federal government, the Coroner's Office, the Chief Firearms Officer, and the Office of the Information and Privacy Commissioner. The CKW Inquest verdict can be found at the Government of Ontario's list of 2022 Coroner's Inquests' Verdicts and Recommendations, June, [ontario.ca](https://www.ontario.ca).
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Chapter Two: Understandings of Gendered Violence

- 1 Much of the information about the Castleton murders is drawn from *The Castleton Massacre: Survivors' Stories of the Killings Femicide*, by Sharon Anne Cook and Margaret Carson (Dundurn Press, 2022).
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- 3 *Status Quo?: The Unfinished Business of Feminism in Canada*, Karen Cho (National Film Board, 2012), at 1:48.
- 4 Statistics Canada, "Average and Median Gender Pay Ratio in Annual Wages, Salaries and Commissions," table 14-10-0324-01, release date May 2, 2023, [statcan.gc.ca](https://www150.statcan.gc.ca).
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- 6 Linda MacLeod, *Wife Battering in Canada: The Vicious Circle* (Minister of Supply and Services Canada, 1980), [ojp.gov](https://www.ojp.gov).
- 7 Judy Stoffman, "MP Margaret Mitchell Famously Called Wife Abuse 'No Laughing Matter,'" obituary, March 22, 2017, theglobeandmail.com.
- 8 Pam Cross, "Have We Really Come a Long Way, Baby?," opinion, *Kingston Whig Standard*, December 5, 2012, [thewhig.com](https://www.thewhig.com).
- 9 See: White Ribbon, [whiteribbon.ca](https://www.whiteribbon.ca); Government of Canada, "The National Day of Remembrance and Action on Violence Against Women," [canada.ca](https://www.canada.ca).
- 10 See *Reclaiming Power and Place: The Final Report of the National Inquiry into Missing and Murdered Indigenous Women and Girls* (2019), [mmiwg-ffada.ca](https://www.mmiwg-ffada.ca). The inquiry defined 2SLGBTQQIA as Two-Spirit, lesbian, gay, bisexual, transgender, queer, questioning, intersex, and asexual; and specifically included this group in its mandate.
- 11 "A Report Card on the MMIWG Inquiry's Calls for Justice," CBC News, June 5, 2023, [cbc.ca](https://www.cbc.ca).
- 12 *Turning the Tide Together: Final Report of the Mass Casualty Commission*, vol. 3: Violence (2023), 12, [masscasualtycommission.ca](https://www.masscasualtycommission.ca).
- 13 The work of Dr. Linda Coates and Dr. Alan Wade has been instrumental in helping me understand the importance of how we talk about intimate partner violence. See: Centre for Response-Based Practice, "Training Tools," [responsebasedpractice.com](https://www.responsebasedpractice.com).
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- 15 United Nations, Declaration on the Elimination of Violence Against Women, 1993, [ohchr.org](https://www.ohchr.org).
- 16 Women and Gender Equality Canada, "Gender-Based Violence Glossary," [canada.ca](https://www.canada.ca).
- 17 Government of Canada, *Divorce Act* (RSC, 1985, c. 3 (2nd Supp.)), section 2(1), [justice.gc.ca](https://www.justice.gc.ca).
- 18 Evan Stark, *Coercive Control: How Men Entrap Women in Personal Life*, 2nd ed. (Oxford University Press, 2023).
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- 20 Kate provided a recording of this description of her relationship with an abusive partner for use in domestic violence training I provided to Legal Aid Ontario staff and lawyers between 2015 and 2017. Luke's Place, the Durham Region family law centre for survivors of family violence, is named in Luke's honour (see [chapter five](#)).

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- 29 Marta Burczycka and Shana Conroy, *Family Violence in Canada: A Statistical Profile, 2016* (Statistics Canada, 2018), statcan.gc.ca.
- 30 MacLeod, *Wife Battering in Canada*.
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- 34 Statistics Canada, "Homicide in Canada, 2019," archived infographic, statcan.gc.ca.
- 35 Canadian Femicide Observatory for Justice and Accountability, femicideincanada.ca.
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- 38 Shana Conroy, *Family Violence in Canada: A Statistical Profile, 2019* (Statistics Canada, 2021), statcan.gc.ca.
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- 40 *Reclaiming Power and Place*, vol. 1a.
- 41 Loanna Heidinger, *Violent Victimization and Perceptions of Safety: Experiences of First Nations, Métis and Inuit Women in Canada* (Statistics Canada, 2022), statcan.gc.ca.
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Chapter Three: Barriers to Ending Intimate Partner Violence

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- 3 Battered Women’s Support Services, “Police Accountability and Police-Involved Domestic Violence,” June 5, 2020, bwss.org. For more on police-instigated intimate partner violence, see: Julie Ireton, “‘Blue Wall of Silence’ Protects Police Officers Accused of Gender-Based Violence, Victims Say,” CBC News, April 24, 2024, cbc.ca.
- 4 Ardath Whynacht, *Insurgent Love: Abolition and Domestic Homicide* (Fernwood, 2021), 52–53.
- 5 Increasingly in Canada, people find themselves still living in the same home as their former partner. While there are a few possible reasons for this, the most common is that neither person can afford to move until the home is sold or other financial issues are resolved. Whatever the reasons, where there has been abuse during the relationship, this kind of living arrangement almost always adds to the likelihood that post-separation abuse will continue and escalate.
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- 9 Rod Mickleburgh, “Café Manager Dies Protecting Woman,” January 31, 2000, theglobeandmail.com.
- 10 Bob Mitchell, “Husband Gets Life for Killing Teacher,” *Toronto Star*, April 2, 2007, thestar.com.
- 11 For more information about technology-enabled abuse, how to identify it and how to create a safety plan for protection, see the Tech Safety Toolkit on the Luke’s Place website, lukesplace.ca.
- 12 The *Hague Convention on the Civil Aspects of International Child Abductions* (hcch.net) is an international convention to facilitate cooperation among countries in returning children to their country of origin when they have been improperly taken to or are being improperly held in another country. It only applies to countries that have signed it. Canada is one of the approximately hundred signatories; many countries where women have limited legal rights have not signed the convention.
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- 14 *Turning the Tide Together: Final Report of the Mass Casualty Commission*, vol. 2: What Happened (2023), 10, masscasualtycommission.ca.
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- 31 Richard Collier, “Men, Gender and Fathers’ Rights” in *After Legal Equality: Family Sex, Kinship*, ed. Robert Leckey (Routledge, 2015), 60–61.
- 32 They occasionally step outside the family law arena. In 2001, FACT, Fathers Are Capable Too, obtained standing to appear at the inquest into the deaths of Gillian Hadley and her husband, where they were represented by lawyer Walter Fox. Gillian had been murdered by her husband, who then killed himself, while he was under a restraining order to have no contact with her and to remain away from the family home, which is where they both died.
- 33 “‘Batman and Robin’ on Trial for Fathers’ Protest at Montreal Bridge,” CBC News, December 8, 2008, [cbc.ca](https://www.cbc.ca).
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Chapter Four: The Law

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- 5 After an unbelievable case in 2021, in which a sexual assault survivor was criminally charged for having breached the publication ban in place by sharing information about the criminal trial with friends and family members, survivors and advocates worked hard for changes to the *Criminal Code*. In October 2023, Bill S-12, which significantly overhauls how publication bans are to be used, received royal assent. See “Liberal Bill Updating Sex-Offender Registry in Response to Court Decision Becomes Law,” Canadian Press, October 27, 2023, [ctvnews.ca](https://www.ctvnews.ca).
- 6 See: Government of Ontario, “Family Court Support Workers,” [ontario.ca](https://www.ontario.ca).
- 7 The CKW Inquest verdict can be found at the Government of Ontario’s list of 2022 Coroner’s Inquests’ Verdicts and Recommendations, June, [ontario.ca](https://www.ontario.ca).
- 8 “Ontario’s Response to Jury Recommendations—Part II: Culleton, Kuzyk, and Warmerdam (CKW) Inquest” (Luke’s Place, June 2023), 49, lukesplace.ca.
- 9 *Final Report of the Mass Casualty Commission: Recommendations* (2023), masscasualtycommission.ca.
- 10 Government of Canada, *Divorce Act* (RSC, 1985, c. 3 (2nd Supp.)), section 2(1), [justice.gc.ca](https://www.justice.gc.ca).
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- 15 Joan B. Kelly and Janet R. Johnston, “The Alienated Child: A Reformulation of Parental Alienation Syndrome,” *Family Court Review* 39, no. 3 (2001): 249–66, [jkseminars.com](https://www.jkseminars.com). See the “Men’s rights groups” section in [chapter three](#) of this book for more on the discredited theory of parental alienation.
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- 23 Government of Canada, "Legal Aid in Canada 2020–21," [justice.gc.ca](https://www.justice.gc.ca).
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- 33 Kendall Latimer, "Judge Orders 1-Year Sentence for Sask. Woman Who Abducted Child and Forged IDs to Flee Country," *CBC News*, November 2, 2023, [cbc.ca](https://www.cbc.ca).
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Chapter Five: What We Can Do

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Epilogue

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